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Superior Court of California  
County of Fresno  
By: J. Nelson, Deputy

10      Attorneys for Plaintiffs

11      **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12      **COUNTY OF FRESNO**

13      COUNTY OF SANTA CRUZ; CITY OF  
14      AGOURA HILLS; CITY OF ANGELS CAMP;  
15      CITY OF ARCADIA; CITY OF ATWATER;  
16      CITY OF BEVERLY HILLS; CITY OF CERES;  
17      CITY OF CLOVIS; CITY OF COVINA; CITY  
18      OF DIXON; CITY OF DOWNEY; CITY OF  
19      MCFARLAND; CITY OF NEWMAN; CITY OF  
20      OAKDALE; CITY OF PALMDALE; CITY OF  
21      PATTERSON; CITY OF RIVERBANK; CITY  
22      OF RIVERSIDE; CITY OF SAN PABLO; CITY  
23      OF SONORA; CITY OF TEHACHAPI; CITY  
24      OF TEMECULA; CITY OF TRACY; CITY OF  
25      TURLOCK; and CITY OF VACAVILLE,

Case No.: [19CECG01224](#)

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

(Code Civ. Proc., § 1060; Gov. Code, § 11350)

17      Plaintiffs,

18      v.

19      BUREAU OF CANNABIS CONTROL; LORI  
20      AJAX, in her official capacity as Chief of the  
21      Bureau of Cannabis Control; and DOES 1  
22      through 10, inclusive,

Defendants.

23  
24      The above-named Plaintiffs file this Complaint against the California Bureau of Cannabis  
25      Control (“BCC”) and its Chief, Lori Ajax, in her official capacity (collectively “Defendants”).

26      Plaintiffs allege as follows:

27      ///

28      ///

## INTRODUCTION

2       1. Plaintiffs seek a judicial declaration invalidating Title 16, section 5416(d), of the  
3 California Code of Regulations.<sup>1</sup> Regulation 5416(d) permits the delivery of commercial<sup>2</sup> cannabis  
4 to a physical address **anywhere in the state**, which conflicts with the plain language of Business  
5 and Professions Code sections 26090 and 26200. Business and Professions Code section 26090(e)  
6 allows **deliveries** of cannabis, but only if such operations **comply with local law**. Section  
7 26200(a)(1) allows a local jurisdiction to **regulate or completely prohibit the operation** of  
8 commercial cannabis businesses within its boundaries.

9       2.       The Administrative Procedure Act (“APA”)<sup>3</sup> requires that regulations, *inter alia*,  
10      be **consistent** with the statutory provisions being clarified or implemented.

11           3.       Regulation 5416(d) is in direct conflict with the plain language of Business and  
12 Professions Code sections 26090 and 26200, which guarantee the right of local jurisdictions to  
13 regulate or prohibit commercial cannabis operations within their boundaries.

14       4.     This Court should, therefore, declare Regulation 5416(d) to be invalid and  
15 permanently enjoin the enforcement of the regulation.

## **PARTIES**

17       5. Plaintiffs are cities and one county within the State of California. Plaintiffs have  
18 adopted ordinances and resolutions regulating—or prohibiting—commercial cannabis activity  
19 within their jurisdictions.

20       6.      Defendant BCC is an administrative agency under the Department of Consumer  
21 Affairs of the State of California. The BCC adopted Regulation 5416(d), the regulation that is the  
22 subject of this action.

23 | //

<sup>1</sup> All references to “Regulation” are to Title 16 of the California Code of Regulations. All references to “Section” are to the Business and Professions Code, unless otherwise indicated.

26       <sup>2</sup> As opposed to cannabis grown for “personal” use. Proposition 64 permits the personal cultivation, inside  
27       a private residence, of up to six plants by adults. (Health & Saf. Code, § 11362.1, subd. (a)(3).) Cities and  
      counties may, however, completely ban *outdoor* personal cultivation. (*Id.*, § 11362.2, subd. (b).)

28 | <sup>3</sup> Gov. Code, §§ 11340–11361.

7. Defendant Lori Ajax is the Chief of the BCC and is sued only in her official capacity.

8. Plaintiffs are ignorant of the true names or capacities of the persons or entities herein named as DOES 1 through 10, inclusive, and therefore sues these parties by their fictitious names. Plaintiffs will amend this Complaint to set forth the real names and capacities of the DOE defendants, along with any additional allegations, when such information is ascertained.

## **JURISDICTION AND VENUE**

9. This Court has jurisdiction over the matters alleged in this Complaint pursuant to Government Code section 11350(a) and Code of Civil Procedure section 1060.

10. Venue for this action properly lies in the Superior Court of the State of California, County of Fresno, pursuant to Code of Civil Procedure sections 393, 395(a) and 401(1).

## **FACTUAL ALLEGATIONS**

### **a. Ballot Measures and Implementing Legislation**

11. On November 5, 1996, California's voters approved Proposition 215, which decriminalized specified uses of *medical* cannabis. The Legislature implemented and clarified Proposition 215, delegating much of the regulation of medical cannabis to local jurisdictions. (See, e.g., Stats. 2003, ch. 875, amended by Stats. 2017, ch. 27 [codified as Health & Saf. Code, § 11362.83]; Stats. 2010, ch. 603, amended by Stats. 2017, ch. 27 [codified as Health & Saf. Code, § 11362.768].)

12. In 2015, the Legislature adopted the Medical Cannabis Regulation and Safety Act (“MCRSA”), a legislative package that established a comprehensive regulatory framework for the cultivation, manufacturing, retail, sale, transportation, storage, delivery and testing of *medical* cannabis in California. (See, e.g., Stats. 2015, ch. 688, amended by Stats. 2017, ch. 27; Stats. 2015, ch. 689, amended by Stats. 2017, ch. 27; Stats. 2015, ch. 719, amended by Stats. 2017, ch. 27.))

13. On November 8, 2016, California's voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA” or “Proposition 64”), legalizing the recreational use of cannabis under state law.

11

1       14. In 2017, the Legislature enacted the Medicinal and Adult-Use Cannabis Regulation  
2 and Safety Act (“MAUCRSA”). MAUCRSA represents a single regulatory structure for both  
3 medical *and* recreational cannabis. (Stats. 2017, ch. 27.) MAUCRSA granted authority to the BCC  
4 to “make and prescribe reasonable rules and regulations as may be necessary to implement,  
5 administer, and enforce [its] respective duties under this division . . . .” (Bus. & Prof. Code, §  
6 26013, subd. (a.)) Section 26013 makes clear that “[t]hose rules and regulations **shall be**  
7 **consistent with the purposes and intent** of the [Proposition 64].” (*Ibid.*, bold added.)

## b. Rulemaking History

9        15. In 2017, the BCC adopted emergency regulations to implement and interpret  
10 MAUCRSA. (Cal. Reg. Notice Register 2017, No. 51-Z, p. 1958 [operative Dec. 7, 2017].) The  
11 regulations would have been repealed by operation of law on June 6, 2018. However, the BCC  
12 refiled the emergency regulations with amendments. (Cal. Reg. Notice Register 2018, No. 24-Z, p.  
13 934 [operative June 6, 2018].) Notably, Regulation 5416(d) was not included in either the 2017  
14 emergency regulations, or the emergency regulations readopted on June 6, 2018.

15        16. On July 13, 2018, the BCC issued the formal notice required by the APA to adopt  
16 the emergency regulations as “permanent” regulations (known as a “certificate of compliance”).  
17 This permanent rulemaking package included for the first time, Subsection (d) of Regulation 5416,  
18 the subject of this lawsuit.

17. Regulation 5416(d) provides that “[a] delivery employee may deliver to any jurisdiction within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division.” (Cal. Code Regs., tit. 16, § 5416(d).) Despite the inclusion of this regulation for the first time, the BCC’s Notice of Proposed Rulemaking excludes any mention or reference to this significant addition to the regulatory framework for delivery services. (Cal. Reg. Notice Register 2018, No. 28-Z, p. 1063.)

25        18. Following completion of the rulemaking process, the BCC transmitted the  
26 rulemaking file to the Office of Administrative Law (“OAL”) on December 3, 2018, which  
27 approved the regulations and filed them with the Secretary of State.

28 | //

1           19. The final regulations became effective on January 16, 2019. (Cal. Reg. Notice  
2 Register 2019, No. 4-Z, p. 175.)

3 20. Plaintiffs allege—on information and belief—that the BCC is allowing deliveries  
4 pursuant to Regulation 5416(d) in violation of the statutory rights of Plaintiffs to regulate or  
5 completely prohibit deliveries of commercial cannabis within their jurisdictions.

## **FIRST CAUSE OF ACTION**

### **(Declaratory Relief)**

8           21. Plaintiffs incorporate by reference each and every allegation contained in  
9 paragraphs 1 through 20.

10           22. An actual controversy has arisen and now exists between Plaintiffs and  
11 Defendants, concerning the validity of Regulation 5416(d) and, specifically, whether it is  
12 inconsistent with Sections 26090 and 26200, as that standard for regulations is set forth in the  
13 APA.

14        23.     The APA requires that a regulation be consistent with statutory provisions.  
15     “ ‘Consistency’ means being in harmony with, and not in conflict with or contradictory to, existing  
16     statutes, court decisions, or other provisions of law.” (Gov. Code, § 11349(d).) “[N]o regulation  
17     adopted is valid or effective unless consistent and not in conflict with the statute and reasonably  
18     necessary to effectuate the purpose of the statute.” (Gov. Code, § 11342.2.)

19           24. Regulation 5416, entitled “Delivery to a Physical Address,” provides in Subsection  
20 (d): “A delivery employee **may deliver to any jurisdiction within the State of California**  
21 provided that such delivery is conducted in compliance with all delivery provisions of this  
22 division.” (Bold added.)

23 25. Regulation 5416(d) is inconsistent with both Section 26090(e);

24

25                         “(e) A local jurisdiction shall not prevent delivery of cannabis or  
26                         cannabis products on public roads by a licensee **acting in compliance with**  
27                         this division **and local law as adopted under Section 26200.**” (Bus. &  
                               Prof. Code, § 26090, subdivision (e), bold added.)

28 | //

1 and Section 26200(a)(1):

2           “(a)(1) This division shall not be interpreted to supersede or limit  
3 the authority of a local jurisdiction to adopt and enforce local ordinances to  
4 regulate businesses licensed under this division, including, but not limited  
5 to, local zoning and land use requirements, business license requirements,  
6 and requirements related to reducing exposure to secondhand smoke, **or to**  
7 **completely prohibit the establishment or operation of one or more**  
8 **types of businesses licensed under this division within the local**  
9 **jurisdiction.”**

10 ....

11 (Bus. & Prof. Code, § 26200, subd. (a)(1), bold and italics added.)

12 26. In sharp contrast to protections for local jurisdictions in these statutory provisions,  
13 Regulation 5416(d) permits commercial cannabis deliveries to *any* physical address in the State,  
14 subject only to the BCC regulations themselves.

15 27. Regulation 5416(d) is also inconsistent with what the proponents of Proposition 64  
16 told voters prior to the election. Proposition 64’s “Findings and Declarations” state that:

17           “The Adult Use of Marijuana Act sets up a comprehensive system  
18 governing marijuana businesses at the state level **and safeguards local**  
19 **control**, allowing local governments to regulate marijuana-related  
20 activities, . . . .” (Official Voter Information Guide, Text of Prop. 64, § 2(E),  
21 p. 179, bold added [Exhibit (“Ex.”) A].)

22 28. Moreover, the proponents stated in Proposition 64’s “Purpose and Intent” section:

23           “It is the intent of the People in enacting this Act to accomplish the  
24 following:

25           “. . .

26           “(c) Allow local governments to enforce state laws and regulations  
27 for nonmedical marijuana businesses and enact additional local  
28 requirements for nonmedical marijuana businesses, but not require that  
they do so for a nonmedical marijuana business to be issued a state license  
and be legal under state law.

1                     “(d) Allow local governments to ban nonmedical marijuana  
2                     businesses as set forth in this Act.

3                     ....”

4                     *(Id. at § 3(c)-(d).)*

5                     29. The Official Voter Information Guide for the November 2016 election contained  
6                     an analysis of Proposition 64 prepared by the nonpartisan Legislative Analyst’s Office (“LAO”).  
7                     The LAO informed voters that:

8                     **“Local Regulation of Nonmedical Marijuana Businesses.** Under  
9                     the measure, cities and counties could regulate nonmedical marijuana  
10                    businesses. For example, cities and counties could require nonmedical  
11                    marijuana businesses to obtain local licenses and restrict where they could  
12                    be located. **Cities and counties could also completely ban marijuana-**  
13                    **related businesses. However, they could not ban the transportation of**  
14                    **marijuana through their jurisdictions.”** (Official Voter Information  
15                    Guide, General Elec. (Nov. 8, 2016) LAO Analysis of Prop. 64, p. 93, bold  
16                    and italics added to text **[Ex. A.]**)

17                     30. Regulation 5416(d) also conflicts with MAUCRSA, which grants local  
18                     jurisdictions the authority to establish and enforce commercial cannabis regulations. The BCC may  
19                     not approve a state license to engage in any form of commercial cannabis activity (e.g., cultivation,  
20                     manufacturing, retail sale, distribution) “if approval of the state license will violate the provisions  
21                     of any local ordinance or regulation adopted in accordance with Section 26200.” (Section  
22                     26055(d).) The BCC may not adopt regulations that limit the authority or remedies of a local  
23                     jurisdiction. (Section 26200(f) “[t]his division, or any regulations promulgated thereunder, shall  
24                     not be deemed to limit the authority or remedies of a city, county, or city and county under any  
25                     provision of law...”].)

26                     31. The BCC’s justification in the rulemaking file<sup>4</sup> for Regulation 5416(d)  
27                     demonstrates the agency’s failure to develop a regulation that is: (1) consistent with MAUCRSA  
28                     and Proposition 64; or (2) reasonably necessary to effectuate their purposes. In the Initial  
Statement of Reasons, the BCC explained that Regulation 5416 was necessary to “identify  
permissible delivery locations and methods.” (BCC Initial Statement of Reasons, p. 109 **[Ex. B.]**.)

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<sup>4</sup> Plaintiffs will lodge the rulemaking file with the Court as soon as the BCC makes it available.

1 The BCC stated—without any legal authority—that, in the absence of Regulation 5416, “licensees  
2 may interpret the silence to allow delivery at any location, including parks, near schools, and other  
3 unauthorized locations.” (*Id.* at p. 110.) It then stated that Subsection (d) was “necessary to clarify  
4 that MAUCRSA and its implementing regulations do not impose restrictions or limit where a  
5 delivery employee may deliver, as long as it is within the State of California.” (*Ibid.*). This analysis  
6 completely ignored the conflicting statutory authority to **regulate or completely prohibit all**  
7 commercial cannabis operations.

8       32.     The BCC disregarded numerous comment letters warning them that Regulation  
9 5416(d) conflicted with the statutory provisions granting local control. (BCC Final Statement of  
10 Reasons, append. A, pp. 291 – 300 [**Ex. C**].)

11       33.     The BCC is required to provide a written response to comments in the Final  
12 Statement of Reasons, but it concluded simply that “Business and Professions Code section 26090  
13 provides that a local jurisdiction shall not prevent delivery of cannabis goods on public roads.” (*Id.*  
14 at p. 291 [**Ex. C**].)

15       34.     The BCC’s rationale (known in APA parlance as “necessity”) for Regulation  
16 5416(d) is inherently contradictory. The BCC cites to Section 26090 as the statutory basis for  
17 adopting a regulation requiring deliveries to physical addresses. (Compare Section 26090(e)  
18 [delivery of cannabis on public roads] to Regulation 5416(a) “[a] delivery employee may only  
19 deliver cannabis goods to a physical address in California.”.) However, under the BCC’s  
20 regulations, the physical address where deliveries occur must be located on private property and,  
21 therefore, such delivery transactions by nature cannot occur on “public roads.” (See Cal. Code of  
22 Regs., tit. 16, § 5416(c) [deliveries cannot be made to an “address located on publicly owned  
23 land.”].) Driving **through** a local jurisdiction on a public road, as the Legislative Analyst noted, is  
24 not the same as conducting a commercial cannabis transaction in the doorway of someone’s house.

25       ///

26       ///

27       ///

28       ///

1           35. The BCC’s own Cannabis Advisory Committee, formed to advise the BCC in  
2 developing regulations to implement Proposition 64 and MAUCRSA, raised concerns that  
3 Regulation 5416(d) eliminated the local control granted to cities and counties in Proposition 64.  
4 (BCC Cannabis Advisory Comm., Meeting Minutes (Aug. 20, 2018) pp. 15-17 [Ex. D].)

5           36. During the 2017-18 legislative session, Senator Ricardo Lara introduced SB 1302,  
6 entitled “**Cannabis: local jurisdiction: prohibitions on delivery**,” which would have prohibited  
7 local jurisdictions from banning delivery of commercial cannabis within their boundaries. The bill  
8 was placed in the inactive file by Senator Lara on May 31, 2018. (California Legislative  
9 Information, Bill Information, SB 1302 (Lara) (2017-2018 Reg. Sess.) History File.<sup>5</sup>)

10          37. The Legislative Counsel “keyed” SB 1302 as requiring a two-thirds vote in each  
11 house, since the elimination of local authority over delivery amounted to an amendment of  
12 Proposition 64. (Sen. Rules Com., Off. of Sen. Floor Analyses, 3d Reading Analysis of SB No.  
13 1302 (2017-2018 Reg. Sess.), as amended April 26, 2018, p. 5 (“[b]ecause SB 1302’s amendments  
14 to the Act go beyond simply implementing AUMA, Legislative Counsel assigned the bill a two-  
15 thirds vote key”) [Ex. E].)

16          38. The Senate Rules Committee analysis went even further, stating that *even a two-*  
17 *thirds vote* might be insufficient, since removal of local control was such a deviation from the  
18 “core goal of AUMA” that it might not *further the purposes of the measure*, as required for any  
19 amendment of Proposition 64. (*Id.*, pp. 4-5 [Ex. E].)

20          39. Subsection (d) of Regulation 5416 was *not* a part of the original emergency  
21 regulations adopted by the BCC (emergency regulations no. 1), nor was it included in the second  
22 set of emergency regulations adopted six months later (emergency regulations no. 2). Shortly after  
23 SB 1302 was placed in the inactive file in the Legislature on May 31, 2018, Regulation 5416(d)  
24 suddenly appeared in the third rulemaking package, noticed on July 13, 2018.

25          40. During the entire rulemaking process for Regulation 5416(d), not once did the  
26 BCC ever address the fact that legislation—not a regulation—was needed to remove local control  
27 over deliveries, that such legislation needed a two-thirds vote in each house, or that such

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28          <sup>5</sup> Accessed at: [https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill\\_id=201720180SB1302](https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201720180SB1302)

legislation might not be possible without another vote of the People since it did not “further the purposes” of Proposition 64.

3       41. The Legislature did grant to the BCC limited rulemaking authority over  
4 distribution and delivery of commercial cannabis. Section 26070 authorizes the BCC to “establish  
5 minimum security and transportation safety requirements for the commercial distribution and  
6 delivery of cannabis and cannabis products.” (Section 26070(b).) The Legislature further clarified  
7 that these safety standards include “minimum standards governing the types of vehicles in which  
8 cannabis and cannabis products may be distributed and delivered and minimum qualifications for  
9 persons eligible to operate such vehicles.” (*Ibid.*) However, this enabling authority to adopt *safety*  
10 *regulations* does not authorize the BCC to override local control in jurisdictions that have  
11 restricted or completely prohibited the operations of such businesses.

12       42.     A judicial determination that Regulation 5416(d) is *ultra vires* as inconsistent with  
13     Sections 26090 and 26200 is necessary and appropriate at this time. The regulation has been  
14     promulgated by the BCC, approved by OAL, and filed with the Secretary of State. Absent a  
15     judicial declaration by this court, Defendants will continue to enforce an invalid regulation.

16       43. A permanent injunction is also necessary to prevent the BCC from enforcing  
17 Regulation 5416(d). Without such injunction, the BCC will continue to allow deliveries of  
18 commercial cannabis in violation of the statutory rights of Plaintiffs to regulate or completely  
19 prohibit such deliveries within their jurisdictions.

## **PRAYER**

21 Wherefore, Plaintiffs pray for relief as follows:

22       1. For a judicial declaration that Title 16, section 5416(d), of the California Code of  
23      Regulations is invalid and may not be implemented or enforced because it is inconsistent with the  
24      statutory authority of local jurisdictions to regulate or prohibit the delivery of commercial cannabis  
25      to a physical address within their boundaries;

26           2. For a permanent injunction prohibiting the BCC from enforcing Regulation  
27 5416(d);

28 | 3. For costs of suit;

1           4. For attorneys' fees pursuant to Code of Civil Procedure section 1021.5; and  
2           5. For such other relief as the Court deems just and proper.

3  
4           DATED: April 4, 2019

CHURCHWELL WHITE LLP

5           By Steven G. Churchwell  
6           Steven G. Churchwell, Attorneys for  
7           Plaintiffs

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# **EXHIBIT A**

**(Relevant Excerpts from California  
General Election Official Voter  
Information Guide)**

# California General Election Tuesday November 8, 2016

Polls Are Open From 7:00 a.m. to 8:00 p.m. on Election Day!

★ ★ ★ ★ ★ OFFICIAL VOTER INFORMATION GUIDE ★ ★ ★ ★ ★



## Certificate of Correctness

I, Alex Padilla, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 8, 2016, and that this guide has been correctly prepared in accordance with the law. Witness my hand and the Great Seal of the State in Sacramento, California, this 15th day of August, 2016.

Alex Padilla, Secretary of State

# VOTER BILL OF RIGHTS

## YOU HAVE THE FOLLOWING RIGHTS:

**1** **The right to vote if you are a registered voter.**

You are eligible to vote if you are:

- a U.S. citizen living in California
- at least 18 years old
- registered where you currently live
- not in prison or on parole for a felony

**2** **The right to vote if you are a registered voter even if your name is not on the list.** You will vote using a provisional ballot. Your vote will be counted if elections officials determine that you are eligible to vote.

**3** **The right to vote if you are still in line when the polls close.**

**4** **The right to cast a secret ballot** without anyone bothering you or telling you how to vote.

**5** **The right to get a new ballot if you have made a mistake,** if you have not already cast your ballot. You can:

**Ask an elections official at a polling place** for a new ballot; or

**Exchange your vote-by-mail ballot** for a new one at an elections office, or at your polling place; or

**Vote using a provisional ballot**, if you do not have your original vote-by-mail ballot.

**6** **The right to get help casting your ballot** from anyone you choose, except from your employer or union representative.

**7** **The right to drop off your completed vote-by-mail ballot at any polling place** in the county where you are registered to vote.

**8** **The right to get election materials in a language other than English** if enough people in your voting precinct speak that language.

**9** **The right to ask questions to elections officials about election procedures** and watch the election process. If the person you ask cannot answer your questions, they must send you to the right person for an answer. If you are disruptive, they can stop answering you.

**10** **The right to report any illegal or fraudulent election activity** to an elections official or the Secretary of State's office.

On the web at [www.sos.ca.gov](http://www.sos.ca.gov)

By phone at (800) 345-VOTE (8683)

By email at [elections@sos.ca.gov](mailto:elections@sos.ca.gov)

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**IF YOU BELIEVE YOU HAVE BEEN DENIED ANY OF THESE RIGHTS, CALL THE SECRETARY OF STATE'S  
CONFIDENTIAL TOLL-FREE VOTER HOTLINE AT (800) 345-VOTE (8683).**

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# QUICK-REFERENCE GUIDE

## PROP 63 FIREARMS, AMMUNITION SALES. INITIATIVE STATUTE.

### SUMMARY

Requires background check and Department of Justice authorization to purchase ammunition. Prohibits possession of large-capacity ammunition magazines. Establishes procedures for enforcing laws prohibiting firearm possession by specified persons. Requires Department of Justice's participation in federal National Instant Criminal Background Check System. Fiscal Impact: Increased state and local court and law enforcement costs, potentially in the tens of millions of dollars annually, related to a new court process for removing firearms from prohibited persons after they are convicted.

### WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: A new court process would be created for the removal of firearms from individuals upon conviction of certain crimes. New requirements related to the selling or purchasing of ammunition would be implemented.

**NO** A NO vote on this measure means: No new firearm- or ammunition-related requirements would be implemented.

### ARGUMENTS

**PRO** Proposition 63 will improve public safety by keeping guns and ammunition out of the wrong hands. Law enforcement and public safety leaders support Prop. 63 because it will reduce gun violence by preventing violent felons, domestic abusers, and the dangerously mentally ill from obtaining and using deadly weapons and ammo.

**CON** Law enforcement, anti-terrorism experts, and civil liberties groups overwhelmingly oppose Prop. 63. It was written by a politician seeking to make a name for himself, not the public safety community. It imposes costly burdens on law enforcement and the taxpayer and only affects the law-abiding.

### FOR ADDITIONAL INFORMATION

#### FOR

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#### AGAINST

Coalition for Civil Liberties  
info@coalitionforcivil liberties.com  
www.stoptheammograb.com

## PROP 64 MARIJUANA LEGALIZATION. INITIATIVE STATUTE.

### SUMMARY

Legalizes marijuana under state law, for use by adults 21 or older. Imposes state taxes on sales and cultivation. Provides for industry licensing and establishes standards for marijuana products. Allows local regulation and taxation. Fiscal Impact: Additional tax revenues ranging from high hundreds of millions of dollars to over \$1 billion annually, mostly dedicated to specific purposes. Reduced criminal justice costs of tens of millions of dollars annually.

### WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: Adults 21 years of age or older could legally grow, possess, and use marijuana for nonmedical purposes, with certain restrictions. The state would regulate nonmedical marijuana businesses and tax the growing and selling of medical and nonmedical marijuana. Most of the revenue from such taxes would support youth programs, environmental protection, and law enforcement.

### ARGUMENTS

**PRO** Prop. 64 creates a safe, legal system for adult use of marijuana. It controls, regulates and taxes marijuana use, and has the nation's strictest protections for children. It provides billions for afterschool programs, job training, drug treatment, and cracking down on impaired driving. Fix our approach to marijuana. Visit YesOn64.org!

**CON** Proposition 64 purposely omits DUI standard to keep marijuana-impaired drivers off our highways. California Association of Highway Patrolmen and Senator Dianne Feinstein strenuously oppose. Legalizes ads promoting smoking marijuana, Gummy candy and brownies on shows watched by millions of children and teens. Shows reckless disregard for child health and safety. Opposed by California Hospital Association. Vote "No".

### FOR ADDITIONAL INFORMATION

#### FOR

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Pages 15-89  
Intentionally Omitted

PROPOSITION MARIJUANA LEGALIZATION.  
**64** INITIATIVE STATUTE.

**OFFICIAL TITLE AND SUMMARY**

PREPARED BY THE ATTORNEY GENERAL

- Legalizes marijuana under state law, for use by adults 21 or older.
- Designates state agencies to license and regulate marijuana industry.
- Imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves.
- Exempts medical marijuana from some taxation.
- Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products.
- Prohibits marketing and advertising marijuana directly to minors.
- Allows local regulation and taxation of marijuana.
- Authorizes resentencing and destruction of records for prior marijuana convictions.

**SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE  
OF NET STATE AND LOCAL GOVERNMENT FISCAL  
IMPACT:**

- The size of the measure's fiscal effects could vary significantly depending on:
  - (1) how state and local governments choose to regulate and tax marijuana,
  - (2) whether the federal government enforces federal laws prohibiting marijuana, and
  - (3) how marijuana prices and consumption change under the measure.
- Net additional state and local tax revenues that could eventually range from the high hundreds of millions of dollars to over \$1 billion annually. Most of these funds would be required to be spent for specific purposes such as youth programs, environmental protection, and law enforcement.
- Net reduced costs potentially in the tens of millions of dollars annually to state and local governments primarily related to a decline in the number of marijuana offenders held in state prisons and county jails.

**ANALYSIS BY THE LEGISLATIVE ANALYST**

**BACKGROUND**

**State Marijuana Laws**

***Marijuana Generally Illegal Under State Law.***

Under current state law, it is generally illegal to possess or use marijuana. (Please see the nearby box for detailed information on how marijuana is used.) Penalties for marijuana-related activities vary depending on the offense. For example, possession of less than one ounce of marijuana (the equivalent of roughly 40 marijuana cigarettes, also known as "joints") is punishable by a fine, while

selling or growing marijuana may result in a jail or prison sentence.

***Proposition 215 Legalized Medical Marijuana.***

In 1996, voters approved Proposition 215, which made it legal under state law for individuals of any age to use marijuana in California for medical purposes. Individuals must have a recommendation from a doctor to use medical marijuana. In 2003, the Legislature legalized medical marijuana collectives, which are nonprofit organizations that grow and provide marijuana to their members. Collectives are not now licensed

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

**How do Individuals Use Marijuana?**

**Smoking.** The most common way individuals use marijuana is by smoking it. Typically, users smoke the dried flowers of the marijuana plant. Dried marijuana leaves can also be smoked but this is rare because leaves contain only small amounts of tetrahydrocannabinol (THC), which is the ingredient in marijuana that produces a "high." Marijuana leaves, flowers, and stalks can also be processed into concentrated marijuana and smoked. Examples of concentrated marijuana include hash and hash oil. Concentrated marijuana is much stronger than dried marijuana, often containing five to ten times the THC levels found in dried marijuana flowers.

**Vaporizing.** Some users consume marijuana with devices called vaporizers. A vaporizer heats up dried marijuana or concentrated marijuana but does not burn it. This heating process creates a gas containing THC that is inhaled.

**Eating.** Marijuana can also be added to food. Edible marijuana products are typically made by adding THC from the plant into ingredients (like butter or oil) that are used to prepare foods such as brownies, cookies, or chocolate bars.

**Other Methods.** Other less common ways of using marijuana include drinking beverages infused with marijuana and rubbing marijuana infused lotions on the skin.

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or regulated by the state, but cities and counties can regulate where and how medical marijuana is grown and sold by individuals or collectives.

**State Currently Adopting New Medical**

**Marijuana Regulations.** Recently, new state laws were adopted to begin regulating medical marijuana. As shown in Figure 1, a new Bureau of Medical Cannabis Regulation and other state agencies are responsible for this regulation. The new laws require the

state to set standards for labelling, testing, and packaging medical marijuana products and to develop a system to track such products from production to sale. Currently, these regulations are being developed by the different regulatory agencies. Under the new laws, medical marijuana collectives must be closed within a few years and replaced by state-licensed businesses. Local governments will continue to have the ability to regulate where and how medical

Figure 1

**Medical Marijuana Industry to Be Regulated by Multiple State Agencies**

Regulatory Agency	Primary Responsibilities
Bureau of Medical Cannabis Regulation	License medical marijuana distributors, transporters, testing facilities, and retailers.
Department of Food and Agriculture	License and regulate medical marijuana growers.
Department of Public Health	License and regulate producers of edible marijuana products.
State Water Resources Control Board	Regulate the environmental impacts of marijuana growing on water quality.
Department of Fish and Wildlife	Regulate environmental impacts of marijuana growing.
Department of Pesticide Regulation	Regulate pesticide use for growing marijuana.

## ANALYSIS BY THE LEGISLATIVE ANALYST

marijuana businesses operate.

**Taxes on Medical Marijuana.** State and local governments currently collect sales tax on medical marijuana. A small number of cities also impose additional taxes specifically on medical marijuana. The total amount of state and local taxes collected on medical marijuana likely is several tens of millions of dollars annually.

### Federal Marijuana Laws

Under federal law, it is illegal to possess or use marijuana, including for medical use. The U.S. Supreme Court ruled in 2005 that federal agencies could continue under federal law to prosecute individuals who possess or use marijuana for medical purposes even if legal under a state's law. Currently, however, the U.S. Department of Justice (DOJ) chooses not to prosecute most marijuana users and businesses that follow state and local marijuana laws if those laws are consistent with federal priorities. These priorities include preventing minors from using marijuana and preventing marijuana from being taken to other states.

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## PROPOSAL

This measure (1) legalizes adult nonmedical use of marijuana, (2) creates a system for regulating nonmedical marijuana businesses, (3) imposes taxes on marijuana, and (4) changes penalties for marijuana-related crimes. These changes are described below.

### Legalization of Adult Nonmedical Use of Marijuana

**Personal Use of Nonmedical Marijuana.** This measure changes state law to legalize the use of marijuana for nonmedical purposes by adults age 21 and over. Figure 2 summarizes what activities would be allowable under the measure. These activities would remain illegal for individuals under the age of 21.

**Purchasing Marijuana.** Under the measure, adults age 21 and over would be able to purchase marijuana at state-licensed businesses or through their delivery services. Businesses could generally not be located within 600 feet of a school, day care center, or youth center, unless allowed by a local government. In addition, businesses selling

**Figure 2**  
**Proposition 64 Legalizes Nonmedical Marijuana Activities, With Restrictions**

Activity	Activities Allowed Under the Measure	Activities Not Allowed Under the Measure
Smoking marijuana	Smoking marijuana in a private home or at a business licensed for on-site marijuana consumption.	Smoking marijuana (1) while driving a car, (2) in any public place (other than at a business licensed for on-site consumption), or (3) anywhere that smoking tobacco is prohibited.
Possessing marijuana for personal use	Possession of up to 28.5 grams (about one ounce) of marijuana and up to 8 grams of concentrated marijuana (such as hash).	Possession of marijuana on the grounds of a school, day care center, or youth center while children are present.
Growing marijuana	Growing up to six marijuana plants and keeping the marijuana produced by the plants within a private home.	Growing in an area that is unlocked or visible from a public place.
Giving away marijuana	Giving away to other adults up to 28.5 grams of marijuana and up to 8 grams of concentrated marijuana.	Providing marijuana to minors under the age of 21 for nonmedical use.

## ANALYSIS BY THE LEGISLATIVE ANALYST

marijuana could not sell tobacco or alcohol. Under the measure, local governments could authorize licensed businesses to allow on-site consumption of marijuana. However, such businesses could not allow consumption in areas within the presence or sight of individuals under the age of 21 or areas visible from a public place. In addition, businesses allowing on-site marijuana consumption could not allow consumption of alcohol or tobacco.

## Regulation of Nonmedical Marijuana Businesses

**State Regulation of Nonmedical Marijuana Businesses.** This measure changes the name of the Bureau of Medical Cannabis Regulation to the Bureau of Marijuana Control and makes it also responsible for regulating and licensing nonmedical marijuana businesses. In addition, the measure requires other state agencies to regulate and license different parts of the nonmedical marijuana industry. These state agencies would have responsibilities similar to the ones they currently have for medical marijuana. The measure requires each licensing agency to charge fees that cover its marijuana regulatory costs. Under the measure, the system for tracking medical marijuana products that must be developed under current law would be expanded to include marijuana for nonmedical use. The measure also creates the Marijuana Control Appeals Panel to hear appeals from

CONTINUED

individuals affected by a decision of the state's regulatory agencies. Decisions of the panel could be appealed to the courts.

**Local Regulation of Nonmedical Marijuana Businesses.** Under the measure, cities and counties could regulate nonmedical marijuana businesses. For example, cities and counties could require nonmedical marijuana businesses to obtain local licenses and restrict where they could be located. Cities and counties could also completely ban marijuana-related businesses. However, they could not ban the transportation of marijuana through their jurisdictions.

## Taxation of Marijuana

The measure imposes new state taxes on growing and selling both medical and nonmedical marijuana. As shown in Figure 3, the new tax on growing marijuana would be based on a dollar amount per ounce of marijuana, and the new excise tax would be based on the retail price of marijuana products sold.

The measure would also affect sales tax revenue to the state and local governments in two ways. First, legalizing the sale of nonmedical marijuana will result in new sales tax revenue. (This would happen automatically, as generally products are subject to this tax under current law.) Second, the sale of medical marijuana, which is currently subject to sales tax, is

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**Figure 3**

### Taxation of Marijuana Under Proposition 64

Type of Tax	Type of Marijuana Taxed	Rate
New state tax on growing	Both medical and nonmedical.	\$9.25 per ounce of dried marijuana flowers and \$2.75 per ounce of dried marijuana leaves.
New state retail excise tax	Both medical and nonmedical.	15 percent of retail price.
Existing state and local sales tax	Nonmedical only.	Rates vary across the state but average around 8 percent.
Existing and future local taxes	Can apply to both medical and nonmedical.	Subject to local government decisions.

## ANALYSIS BY THE LEGISLATIVE ANALYST

specifically exempted from that tax. The measure does not change local governments' existing ability to place other taxes on medical marijuana and does not restrict their ability to tax nonmedical marijuana.

Beginning in 2020, the tax on growing marijuana would be adjusted annually for inflation. The measure also allows the state Board of Equalization to annually adjust the tax rate for marijuana leaves to reflect changes in the price of marijuana flowers relative to leaves. In addition, the measure allows the board to establish other categories of marijuana (such as frozen marijuana) for tax purposes and specifies that these categories would be taxed at their value relative to marijuana flowers.

### ***Allocation of Certain State Tax Revenues.***

Revenues collected from the new state retail excise tax and the state tax on growing marijuana would be deposited in a new state account, the California Marijuana Tax Fund. Certain fines on businesses or individuals who violate regulations created by the measure would also be deposited into this fund. Monies in the fund would first be used to pay back certain state agencies for any marijuana regulatory costs not covered by

license fees. A portion of the monies would then be allocated in specific dollar amounts for various purposes, as shown in Figure 4.

All remaining revenues (the vast majority of monies deposited in the fund) would be allocated as follows:

- 60 percent for youth programs—including substance use disorder education, prevention, and treatment.
- 20 percent to clean up and prevent environmental damage resulting from the illegal growing of marijuana.
- 20 percent for (1) programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and (2) a grant program designed to reduce any potential negative impacts on public health or safety resulting from the measure.

## **Penalties for Marijuana-Related Crimes**

### ***Change in Penalties for Future Marijuana Crimes.***

The measure changes state marijuana penalties. For example, possession of one ounce or less of marijuana is currently punishable by a \$100 fine. Under the measure, such a crime committed by

**Figure 4**

### **Proposition 64 Allocates a Portion of State Revenues for Specific Purposes**

Purpose	Annual Funding	Duration
Grants for certain services (such as job placement assistance and substance use disorder treatment) in communities most affected by past drug policies	\$10 million to \$50 million <sup>a</sup>	2018–19 and ongoing
Evaluate effects of the measure	\$10 million	2018–19 through 2028–29
Create and adopt methods to determine whether someone is driving while impaired, including by marijuana	\$3 million	2018–19 through 2022–23
Study the risks and benefits of medical marijuana	\$2 million	2017–18 and ongoing

<sup>a</sup> \$10 million in 2018–19, increasing by \$10 million annually until 2022–23, and \$50 million each year thereafter.

## ANALYSIS BY THE LEGISLATIVE ANALYST

someone under the age of 18 would instead be punishable by a requirement to attend a drug education or counseling program and complete community service. In addition, selling marijuana for nonmedical purposes is currently punishable by up to four years in state prison or county jail. Under the measure, selling marijuana without a license would be a crime generally punishable by up to six months in county jail and/or a fine of up to \$500. In addition, individuals engaging in any marijuana business activity without a license would be subject to a civil penalty of up to three times the amount of the license fee for each violation. While the measure changes penalties for many marijuana-related crimes, the penalties for driving a vehicle while under the impairment of marijuana would remain the same. The measure also requires the destruction—within two years—of criminal records for individuals arrested or convicted for certain marijuana-related offenses.

***Individuals Previously Convicted of Marijuana Crimes.*** Under the measure, individuals serving sentences for activities that are made legal or are subject to lesser penalties under the measure would be eligible for resentencing. For example, an offender serving a jail or prison term for growing or selling marijuana could have their sentence reduced. (A court would not be required to resentence someone if it determined that the person was likely to commit certain severe crimes.) Qualifying individuals would be resentenced to whatever punishment they would have received under the measure. Resentenced individuals currently in jail or prison would be subject to community supervision (such as probation) for up to one year following their release, unless a court removes that requirement. In addition, individuals who have completed sentences for crimes that are reduced by the measure

CONTINUED

could apply to the courts to have their criminal records changed.

## FISCAL EFFECTS

### Fiscal Effects Subject to Significant Uncertainty

This measure would affect both costs and revenues for state and local governments. The size of these effects could vary significantly depending primarily on three key factors:

- First, it would depend on how state and local governments chose to regulate and tax marijuana. For example, if many cities and counties banned marijuana businesses, the amount of revenue from taxes on marijuana would be less than without such bans.
- Second, it would depend on whether the U.S. DOJ enforced federal laws prohibiting marijuana. For example, if the U.S. DOJ chose to prosecute state-licensed marijuana businesses, there could be significantly reduced revenue from marijuana taxes. This analysis assumes the U.S. DOJ will follow its current policy regarding enforcement of marijuana laws.
- Third, the fiscal effects would depend heavily on how marijuana prices and consumption change under the measure. This analysis assumes that the price of marijuana would decline significantly. This is primarily because (1) businesses would become more efficient at producing and distributing marijuana and (2) the price of marijuana would no longer be inflated to compensate for the risk of selling an illegal drug. This analysis also assumes that marijuana consumption would increase under the measure. This is

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## ANALYSIS BY THE LEGISLATIVE ANALYST

primarily because of (1) the reduced price and (2) the reduced legal risk for marijuana users.

The actual effects on marijuana prices and consumption are unknown, as are the regulatory and enforcement actions of the state, federal, and local governments. As such, the potential cost and revenue impacts of this measure described below are subject to significant uncertainty.

### Effects on State and Local Costs

#### ***Reduction in Various Criminal Justice Costs.***

The measure would result in reduced criminal justice costs for the state and local governments. This is primarily related to a decline in the number of offenders held in state prisons and county jails for growing and selling marijuana. The measure would also reduce the number of such offenders placed under community supervision (such as county probation). In addition, the measure would likely reduce other criminal justice costs, such as state court costs for the handling of related criminal cases.

The above cost reductions would be partially offset by increased costs in several areas. In particular, the courts would incur costs to process applications from individuals seeking to be resentenced or have their criminal records changed. In addition, there would be costs to supervise resentenced offenders in the community. These various costs would be incurred largely within the first couple of years following the passage of the measure. In addition, there would be ongoing costs in a few areas. For example, there would be court costs to destroy records of arrest and conviction for individuals who commit certain marijuana-related crimes. In addition, there would be ongoing costs to operate drug education and counseling programs as required by the measure. There

would also be some increased criminal justice costs (such as county jail and state court costs) to the extent that increased marijuana use leads to increased marijuana-related crime (such as driving while impaired by marijuana).

In total, the net reduction in state and local criminal justice costs from the above changes could be in the tens of millions of dollars annually. In many cases, these resources would likely be redirected to other criminal justice activities.

#### ***Effects on State and Local Health Programs.***

The measure could also have various fiscal effects on state and local health programs as a result of increased marijuana use. For example, the measure could result in an increase in the number of individuals seeking publicly funded substance use treatment. Any additional costs for such services could be partially or entirely offset by additional funding that would be available for substance use treatment under the measure. Although research on the health effects of marijuana use is limited, there is some evidence that smoking marijuana has harmful effects. For example, marijuana smoke is among a list of substances identified by the state to cause cancer. To the extent that an increase in marijuana use negatively affects users' health, it would increase somewhat state and local health program costs.

***Increased State Regulatory Costs.*** The measure would also result in costs for the state to regulate nonmedical marijuana businesses. These costs would vary depending on how the state chooses to regulate marijuana but could amount to several tens of millions of dollars annually. Eventually, these costs would likely be entirely offset by license fees and tax revenues.

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#### ANALYSIS BY THE LEGISLATIVE ANALYST

##### Effects on State and Local Revenues

###### ***Tax Revenues Could Reach \$1 Billion Annually, but Not Right Away.***

State and local governments would receive more revenues—including sales, excise, and income taxes—from marijuana sales allowed under this measure. This increase in tax revenue would result primarily from (1) new state excise taxes on growing and selling marijuana, (2) individuals switching from illegal purchases of marijuana (made from individuals who do not pay all the taxes they owe) to legal purchases (at businesses that collect and pay the taxes they owe), and (3) an increase in consumption of marijuana. In addition, lower marijuana prices due to the measure may provide individuals using marijuana now with some savings. This could allow them to purchase other legal products that generate tax revenue. These revenue increases, however, would be partially offset by the loss of sales taxes now collected on medical marijuana sales, as the measure exempts such purchases from these taxes. In total, our best estimate is that the state and local governments could eventually collect net additional revenues ranging from the high hundreds of millions of dollars to over \$1 billion annually. However, the revenues are likely to be significantly lower in the first several years following the passage of the measure. This is because it will take a couple of years for the state to issue licenses to marijuana businesses. In addition, it will likely take time for newly licensed businesses to set up efficient production and distribution systems. Prices in the legal market will likely fall as more legal businesses are licensed and as they become more efficient. As this occurs, more consumers will begin purchasing marijuana legally. It is unknown precisely how long this

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process will take but it could be several years after the measure passes before revenues reach the range described above. As discussed earlier, the measure requires that most of these funds be spent on specified purposes.

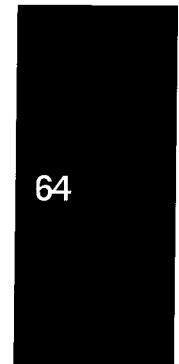
###### ***Additional Local Government Revenues.***

The measure could result in additional revenues if local governments impose taxes on marijuana. The amount of additional revenues could vary significantly, depending primarily on how many local governments impose marijuana taxes and at what rates. These revenues could easily amount to tens of millions of dollars annually.

***Potential Impact on Local Economies in Marijuana Producing Areas.*** Exports of marijuana currently contribute significantly to the economy in parts of Northern California, such as Humboldt, Mendocino, and Trinity Counties. Precisely how this measure would affect these local economies is unknown. Lower marijuana prices and more opportunity for legal cultivation elsewhere could hurt the economy in these areas, reducing local government tax revenues. If, however, local growers and businesses successfully marketed their marijuana products as premium goods, consumers might be willing to pay above-average prices for them. If that occurred, it could help offset some of the negative economic effects in those areas.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee's top 10 contributors.

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★ ARGUMENT IN FAVOR OF PROPOSITION 64 ★

Proposition 64 finally creates a safe, legal, and comprehensive system for adult use of marijuana while protecting our children.

Marijuana is available nearly everywhere in California—but without any protections for children, without assurances of product safety, and without generating tax revenue for the state.

Prop. 64 controls, regulates and taxes adult use of marijuana, and ends California's criminalization of responsible adult use.

California Medical Association supports Prop. 64 because it incorporates best practices from states that already legalized adult marijuana use, and adheres closely to the recommendations of California's Blue Ribbon Commission on Marijuana Policy, which included law enforcement and public health experts.

*How Prop. 64 Works:*

- Under this law, adults 21+ will be allowed to possess small amounts of nonmedical marijuana, and to grow small amounts at home for personal use. Sale of nonmedical marijuana will be legal only at highly regulated, licensed marijuana businesses, and only adults 21+ will be permitted to enter. Bars will not sell marijuana, nor will liquor stores or grocery stores.

*Child Protections:*

- Drug dealers don't ask for proof of age and today can sell marijuana laced with dangerous drugs and chemicals. 64 includes toughest-in-the-nation protections for children, requiring purchasers to be 21, banning advertising directed to children, and requiring clear labeling and independent product testing to ensure safety. 64 prohibits marijuana businesses next to schools.

The independent Legislative Analyst's Office found that 64 will both raise revenue and decrease costs. By collecting unpaid taxes from marijuana, it will bring in over \$1 billion of revenue every year to help California. And it could save tens of millions of dollars annually in

reduced law enforcement costs. Together, that is a benefit of \$11 billion over the next decade.

- 64 corrects mistakes from past measures that didn't direct where money goes. Instead, this measure is specific about how money can be spent. Prop. 64 specifically prevents politicians from diverting money to their separate pet projects.
- 64 pays for itself and raises billions for afterschool programs that help kids stay in school; for job placement, job training, and mental health treatment; for drug prevention education for teens; to treat alcohol and drug addiction; and to fund training and research for law enforcement to crack down on impaired driving. Over the next decade, these programs will receive billions in revenues.

Every year, there are more than 8,800 felony arrests for growing or selling marijuana in California, resulting in some very long prison sentences. This is an enormous waste of law enforcement resources. Prop. 64 will stop ruining people's lives for marijuana.

The tough, common sense regulations put forth in 64 are supported by the largest coalition ever in support of marijuana reform, including Lieutenant Governor Gavin Newsom, Democratic and Republican Congressmembers, Law Enforcement Against Prohibition, the California NAACP, the California Democratic Party and many others. We all know California's current approach toward marijuana doesn't make sense. It's time to put an end to our broken system, and implement proven reforms so marijuana will be safe, controlled, and taxed.

**DR. DONALD O. LYMAN**, Former Chief of Chronic Disease and Injury Control  
California Department of Public Health

**GRETCHEN BURNS**, Executive Director  
Parents for Addiction Treatment and Healing

**STEVEN DOWNING**, Former Deputy Chief

Los Angeles Police Department

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 64 ★

Proposition 64, in effect, could limit a 45-year ban on smoking ads on television, allowing marijuana ads airing to millions of children and teen viewers. These ads can appear during The Olympics, on "The Voice," "The Big Bang Theory" and hundreds of other programs popular with younger viewers.

These marijuana smoking ads could be allowed on all broadcast primetime shows, and approximately 95% of all broadcast television programming. Children could be exposed to ads promoting marijuana Gummy candy and brownies—the same products blamed for a spike in emergency room visits in Colorado.

We ban tobacco television ads because studies show it encouraged kids to start smoking. Marijuana smoking ads on TV *should* have been banned, but the proponents didn't want to restrict the enormous profits they plan to make, estimated in the billions. And like tobacco money, the corporate monopolies spawned by Proposition 64 can use that money for contributions to politicians to ensure we can never undo the damage Proposition 64 will do.

Sharon Levy, M.D., FAAP, chair of the American Academy of Pediatrics Committee on Substance Abuse warns "It took several generations, millions of lives and billions of dollars to establish the harms of tobacco use on health, even though these harms are overwhelming. We should not consider marijuana 'innocent until proven guilty,' given what we already know about the harms to adolescents."

After recent reforms, *not one single person* remains in California's prisons solely for simple marijuana possession. What Proposition 64 is really about is exposing our children to harm in order to make billions. Join us in voting "No" on Proposition 64.

**KATIE DEXTER**, Past President  
San Diego County School Boards Association

**JOHN QUINTANILLA**, Board Member  
Rosemead School District

**CYNTHIA RUIZ**, Board Member  
Walnut Valley Unified School District

★ ARGUMENT AGAINST PROPOSITION 64 ★

There are five huge flaws in Proposition 64 that directly affect you and the people you care about.

*Flaw #1: Doubling of highway fatalities.*

The AAA Foundation for Highway Safety reports that deaths in marijuana-related car crashes have doubled since the State of Washington approved legalization. Yet, incredibly, Proposition 64's proponents refused to include a DUI standard for marijuana, making it extremely difficult to keep impaired drivers off our highways.

*Flaw #2: Allows marijuana growing near schools and parks.*

Proposition 64 actually forbids local governments from banning indoor residential growing of marijuana—even next door to an elementary school—provided the crop is limited to six plants, (and that is a lot of marijuana). The California Police Chiefs Association adds that “by permitting indoor cultivation of marijuana literally next door to elementary schools and playgrounds, Proposition 64 is trampling local control.”

*Flaw #3: Will increase, not decrease black market and drug cartel activity.*

“Organized crime filings have skyrocketed in Colorado since marijuana legalization,” says Past President of the Colorado Association of Chiefs of Police John Jackson. “We had 1 filing in 2007 and by 2015, we had 40. Since your Proposition 64 repeals the prohibition on heroin and meth dealers with felony convictions getting into the legal marijuana business, it could be much worse in California.”

*Flaw #4: Could roll back the total prohibition of smoking ads on TV.*

Tobacco ads have been banned from television for decades, but Proposition 64 will allow marijuana smoking ads in prime time, and on programs with millions of children and teenage viewers.

*Flaw #5: Proposition 64 is an all-out assault on underprivileged neighborhoods already reeling from alcohol and drug addiction problems.*

Bishop Ron Allen of the International Faith Based Coalition representing 5,000 inner-city churches calls Proposition 64 an “attack on minorities” and asks “Why are there no limits on the number of pot shops that can be opened in poor neighborhoods? We will now have a string of pot shops to go with the two liquor stores on every block, but we still can’t get a grocery store. Proposition 64 will make every parent’s job tougher.”

In short, Proposition 64 is radically different from legalization measures in other states, and may weaken countless consumer protections just passed last year and signed into law by Governor Brown.

If the proponents’ Rebuttal below doesn’t answer these five questions, then the only reasonable decision is to vote “No”.

1. Why is there no DUI standard in your initiative to let our CHP officers get drug-impaired drivers off the road? It is not sufficient to simply commission a “study”.
2. Why does Proposition 64 permit indoor cultivation of marijuana right next door to playgrounds and schools?
3. Why does Proposition 64 allow felons convicted of dealing meth and heroin to be licensed to sell marijuana?
4. Why does Proposition 64 permit marijuana smoking commercials on TV?
5. Why is there no limit on the number of pot shops that can be placed in a single neighborhood?

They've gotten it wrong, again. We strongly urge your “No” vote on Proposition 64.

To get the facts, visit [www.NoOn64.net](http://www.NoOn64.net)

**DIANNE FEINSTEIN**, United States Senator

**DOUG VILLARS**, President

California Association of Highway Patrolmen

**C. DUANE DAUNER**, President

California Hospital Association

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★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 64 ★

Look at the facts, not scare tactics from groups that always oppose marijuana reform.

- Some evidence has shown states with legalized marijuana have *less* youth marijuana use. Prop. 64 contains the nation's strictest child protections: warning labels, child-resistant packaging, and advertising restrictions, and it requires keeping marijuana out of public view, away from children.
- *Nothing* in 64 makes it legal to show marijuana ads on TV. Federal law prohibits it!
- It has not been definitively proven that impaired driving has *increased* in those states with legalized marijuana, and crash risk hasn't increased. Colorado's Department of Public Safety and National Highway Traffic Safety Administration both confirm this.

Vote Yes on 64 because:

- 64 invests hundreds of millions into equipment and law enforcement training to crack down on unsafe driving. It allocates new funds to develop comprehensive legal standards under direction of the California Highway Patrol for measuring driver impairment.

- 64 makes the protection of public health and safety the #1 priority of the regulators that determine who qualifies for a marijuana business license.
- 64 preserves local control.
- 64 builds on consumer protections signed by the Governor. The independent Legislative Analyst's Office says 64 will raise revenue and decrease costs. Bipartisan lawmakers support 64 because it's based on best practices of states that have safely legalized.

“I don't use marijuana and I don't want my 17-year-old son to either. I'm voting Yes on 64 because it's clear it will protect children much better than what we have now,” says Maria Alexander, Los Angeles mother.

Learn more at [YesOn64.org](http://YesOn64.org).

**REP. TED LIEU**, Former Military Prosecutor

**MARSHA ROSENBAUM**, Ph.D., Co-Chair

Youth Education and Prevention Working Group, Blue Ribbon Commission on Marijuana Policy

**DR. LARRY BEDARD**, Former President

American College of Emergency Physicians

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exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

**SEC. 12. Interim Standards.**

Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety for All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier superseded by regulations adopted pursuant to the APA. "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

**SEC. 13. Amending the Measure.**

This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

**SEC. 14. Conflicting Measures.**

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale or possession of firearms or ammunition, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

**SEC. 15. Severability.**

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

**SEC. 16. Proponent Standing.**

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court

of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

**PROPOSITION 64**

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Business and Professions Code, the Food and Agricultural Code, the Health and Safety Code, the Labor Code, the Revenue and Taxation Code, and the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout~~ type and new provisions proposed to be added are printed in *italic* type to indicate that they are new.

**PROPOSED LAW**

**SECTION 1. Title.**

This measure shall be known and may be cited as the Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act").

**SEC. 2. Findings and Declarations.**

A. Currently in California, nonmedical marijuana use is unregulated, untaxed, and occurs without any consumer or environmental protections. The Control, Regulate and Tax Adult Use of Marijuana Act will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

B. Marijuana is currently legal in our state for medical use and illegal for nonmedical use. Abuse of the medical marijuana system in California has long been widespread, but recent bipartisan legislation signed by Governor Jerry Brown is establishing a comprehensive regulatory scheme for medical marijuana. The Control, Regulate and Tax Adult Use of Marijuana Act (hereafter called the Adult Use of Marijuana Act) will consolidate and streamline regulation and taxation for both nonmedical and medical marijuana.

C. Currently, marijuana growth and sale is not being taxed by the State of California, which means our state is missing out on hundreds of millions of dollars in potential tax revenue every year. The Adult Use of Marijuana Act will tax both the growth and sale of marijuana to generate hundreds of millions of dollars annually. The revenues will cover the cost of administering the new law and will provide funds to: invest in public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law with a focus on DUI enforcement; invest in communities to reduce the illicit market and create job opportunities; and provide for environmental cleanup and restoration of public lands damaged by illegal marijuana cultivation.

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those

under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. And it mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

E. There are currently no laws governing adult use marijuana businesses to ensure that they operate in accordance with existing California laws. Adult use of marijuana may only be accessed from the unregulated illicit market. The Adult Use of Marijuana Act sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality.

F. Currently, illegal marijuana growers steal or divert millions of gallons of water without any accountability. The Adult Use of Marijuana Act will create strict environmental regulations to ensure that the marijuana is grown efficiently and legally, to regulate the use of pesticides, to prevent wasting water, and to minimize water usage. The Adult Use of Marijuana Act will crack down on the illegal use of water and punish bad actors, while providing funds to restore lands that have been damaged by illegal marijuana grows. If a business does not demonstrate they are in full compliance with the applicable water usage and environmental laws, they will have their license revoked.

G. Currently, the courts are clogged with cases of non-violent drug offenses. By legalizing marijuana, the Adult Use of Marijuana Act will alleviate pressure on the courts, but continue to allow prosecutors to charge the most serious marijuana-related offenses as felonies, while reducing the penalties for minor marijuana-related offenses as set forth in the act.

H. By bringing marijuana into a regulated and legitimate market, the Adult Use of Marijuana Act creates a transparent and accountable system. This will help police crackdown on the underground black market that currently benefits violent drug cartels and transnational gangs, which are making billions from marijuana trafficking and jeopardizing public safety.

I. The Adult Use of Marijuana Act creates a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise. The Bureau of Marijuana Control, housed in the Department of Consumer Affairs, will oversee the whole system and ensure a smooth transition to the legal market, with licenses issued beginning in 2018. The Department of Consumer Affairs will also license and oversee marijuana retailers, distributors, and microbusinesses. The Department of Food and Agriculture will license and oversee marijuana cultivation, ensuring it is environmentally safe. The State Department of Public Health will license and oversee manufacturing and testing, ensuring consumers receive a safe product. The State Board of Equalization will collect the special marijuana taxes, and the Controller will allocate the revenue to administer the new law and provide the funds to critical investments.

J. The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale

cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

### SEC. 3. Purpose and Intent.

The purpose of the Adult Use of Marijuana Act is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana. It is the intent of the people in enacting this act to accomplish the following:

- (a) Take nonmedical marijuana production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.
- (b) Strictly control the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana through a system of state licensing, regulation, and enforcement.
- (c) Allow local governments to enforce state laws and regulations for nonmedical marijuana businesses and enact additional local requirements for nonmedical marijuana businesses, but not require that they do so for a nonmedical marijuana business to be issued a state license and be legal under state law.
- (d) Allow local governments to ban nonmedical marijuana businesses as set forth in this act.
- (e) Require track and trace management procedures to track nonmedical marijuana from cultivation to sale.
- (f) Require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.
- (g) Require nonmedical marijuana sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical marijuana.
- (h) Require licensed nonmedical marijuana businesses to follow strict environmental and product safety standards as a condition of maintaining their license.
- (i) Prohibit the sale of nonmedical marijuana by businesses that also sell alcohol or tobacco.
- (j) Prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.
- (k) Strengthen the state's existing medical marijuana system by requiring patients to obtain by January 1, 2018, a new recommendation from their physician that meets the strict standards signed into law by the Governor in 2015, and by providing new privacy protections for patients who obtain medical marijuana identification cards as set forth in this act.
- (l) Permit adults 21 years and older to use, possess, purchase and grow nonmedical marijuana within defined limits for use by adults 21 years and older as set forth in this act.
- (m) Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local

laws, and only to ban outdoor cultivation as set forth in this act.

(n) Deny access to marijuana by persons younger than 21 years old who are not medical marijuana patients.

(o) Prohibit the consumption of marijuana in a public place unlicensed for such use, including near K-12 schools and other areas where children are present.

(p) Maintain existing laws making it unlawful to operate a car or other vehicle used for transportation while impaired by marijuana.

(q) Prohibit the cultivation of marijuana on public lands or while trespassing on private lands.

(r) Allow public and private employers to enact and enforce workplace policies pertaining to marijuana.

(s) Tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults.

(t) Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.

(u) Prevent illegal production or distribution of marijuana.

(v) Prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market.

(w) Preserve scarce law enforcement resources to prevent and prosecute violent crime.

(x) Reduce barriers to entry into the legal, regulated market.

(y) Require minors who commit marijuana-related offenses to complete drug prevention education or counseling and community service.

(z) Authorize courts to resentence persons who are currently serving a sentence for offenses for which the penalty is reduced by the act, so long as the person does not pose a risk to public safety, and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this act.

(aa) Allow industrial hemp to be grown as an agricultural product, and for agricultural or academic research, and regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

SEC. 4. Personal Use.

SEC. 4.1. Section 11018 of the Health and Safety Code is amended to read:

#### 11018. Marijuana.

~~"Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.~~

(a) *Industrial hemp, as defined in Section 11018.5; or*

*(b) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.*

SEC. 4.2. Section 11018.1 is added to the Health and Safety Code, to read:

#### 11018.1. Marijuana Products.

*"Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.*

SEC. 4.3. Section 11018.2 is added to the Health and Safety Code, to read:

#### 11018.2. Marijuana Accessories.

*"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.*

SEC. 4.4. Section 11362.1 is added to the Health and Safety Code, to read:

*11362.1. (a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:*

*(1) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;*

*(2) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;*

*(3) Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;*

*(4) Smoke or ingest marijuana or marijuana products; and*

*(5) Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.*

*(b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. Sec. 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute marijuana accessories.*

*(c) Marijuana and marijuana products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.*

SEC. 4.5. Section 11362.2 is added to the Health and Safety Code, to read:

11362.2. (a) Personal cultivation of marijuana under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

(1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b).

(2) The living plants and any marijuana produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.

(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

(b) (1) A city, county, or city and county may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.

(2) Notwithstanding paragraph (1), no city, county, or city and county may completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

(3) Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

(4) Paragraph (3) shall become inoperative upon a determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) shall be deemed repealed upon the date of such determination by the Attorney General.

(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

SEC. 4.6. Section 11362.3 is added to the Health and Safety Code, to read:

11362.3. (a) Nothing in Section 11362.1 shall be construed to permit any person to:

(1) Smoke or ingest marijuana or marijuana products in any public place, except in accordance with Section 26200 of the Business and Professions Code.

(2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.

(3) Smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of, or Chapter 3.5 (commencing with Section 19300) of Division 8 of, the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present.

(4) Possess an open container or open package of marijuana or marijuana products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(5) Possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 (commencing with Section 19300) of Division 8 of, or Division 10 of, the Business and Professions Code.

(7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under the age of 21 years are present.

(b) For purposes of this section, "day care center" has the same meaning as in Section 1596.76.

(c) For purposes of this section, "smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(d) For purposes of this section, "volatile solvent" means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O<sub>2</sub> or H<sub>2</sub>; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(e) For purposes of this section, "youth center" has the same meaning as in Section 11353.1.

(f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

SEC. 4.7. Section 11362.4 is added to the Health and Safety Code, to read:

11362.4. (a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one hundred dollar (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

(b) A person who engages in the conduct described in paragraphs (2) through (4) of subdivision (a) of Section 11362.3 shall be guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine,

unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.

(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine.

(f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

(g) (1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

(2) The drug education program required by this section for persons under the age of 18 must be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

SEC. 4.8. Section 11362.45 is added to the Health and Safety Code, to read:

11362.45. Nothing in Section 11362.1 shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:

(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, marijuana or marijuana products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

(b) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, marijuana products, or marijuana accessories, or the offering to sell, administer, furnish, or give away marijuana, marijuana products, or marijuana accessories to a person younger than 21 years of age.

(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.

(d) Laws pertaining to smoking or ingesting marijuana or marijuana products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

(e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting marijuana or marijuana products.

(f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with state or federal law.

(g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.

(h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.

(i) Laws pertaining to the Compassionate Use Act of 1996.

SEC. 5. Use of Marijuana for Medical Purposes.

SEC. 5.1. Section 11362.712 is added to the Health and Safety Code, to read:

11362.712. (a) Commencing on January 1, 2018, a qualified patient must possess a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.

(b) A county health department or the county's designee shall develop protocols to ensure that, commencing upon January 1, 2018, all identification cards issued pursuant to Section 11362.71 are supported by a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code.

SEC. 5.2. Section 11362.713 is added to the Health and Safety Code, to read:

11362.713. (a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, received and contained in the records of the State Department of Public Health and by any county public health department are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by the department or by any county public health department except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.

(b) Within 24 hours of receiving any request to disclose the name, address, or social security number of a patient, their medical condition, or the name of their primary caregiver, the State Department of Public Health or any county public health agency shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.

(c) Notwithstanding Section 56.10 of the Civil Code, neither the State Department of Public Health, nor any county public health agency, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.

(d) No identification card application system or database used or maintained by the State Department of Public Health or by any county department of public health or the county's designee as provided in Section 11362.71 shall contain any personal information of any qualified patient, including, but not limited to, the patient's name, address, social security number, medical conditions, or the names of their primary caregivers. Such an application system or database may only contain a unique user identification number, and when that number is entered, the only information that may be provided is whether the card is valid or invalid.

SEC. 5.3. Section 11362.755 of the Health and Safety Code is amended to read:

11362.755. (a) The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) In no event shall the amount of the fee charged by a county health department exceed one hundred dollars (\$100) per application or renewal.

(b) (c) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

(d) Upon satisfactory proof that a qualified patient, or the legal guardian of a qualified patient under the age of 18, is a medically indigent adult who is eligible for and participates in the County Medical Services Program, the fee established pursuant to this section shall be waived.

(e) In the event the fees charged and collected by a county health department are not sufficient to pay for the administrative costs incurred in discharging the county health department's duties with respect to the mandatory identification card system, the Legislature, upon request by the county health department, shall reimburse the county health department for those reasonable administrative costs in excess of the fees charged and collected by the county health department.

SEC. 5.4. Section 11362.84 is added to the Health and Safety Code, to read:

11362.84. The status and conduct of a qualified patient who acts in accordance with the Compassionate Use Act shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of family or juvenile court.

SEC. 5.5. Section 11362.85 is added to the Health and Safety Code, to read:

11362.85. Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify marijuana, the Legislature may amend or repeal the provisions of the Health and Safety Code, as necessary, to conform state law to such changes in federal law.

SEC. 6. Marijuana Regulation and Safety.

SEC. 6.1. Division 10 (commencing with Section 26000) is added to the Business and Professions Code, to read:

## DIVISION 10. MARIJUANA

### CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

26000. (a) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.

(b) In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 (commencing with Section 19300) of Division 8 to include the power and duty to control and regulate the commercial nonmedical marijuana industry.

(c) The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

26001. For purposes of this division, the following definitions shall apply:

(a) "Applicant" means the following:

(1) The owner or owners of a proposed licensee. "Owner" means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee and (B) the power to direct or cause to be directed, the management or control of the licensee.

(2) If the applicant is a publicly traded company, "owner" includes the chief executive officer and any member of the board of directors and any person or entity with an aggregate ownership interest in the company of 20 percent or more. If the applicant is a nonprofit entity, "owner" means both the chief executive officer and any member of the board of directors.

(b) "Bureau" means the Bureau of Marijuana Control within the Department of Consumer Affairs.

(c) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

(d) "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products as provided for in this division.

(e) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

(f) "Customer" means a natural person 21 years of age or over.

(g) "Day care center" shall have the same meaning as in Section 1596.76 of the Health and Safety Code.

(h) "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

(i) "Director" means the Director of the Department of Consumer Affairs.

(j) "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.

(k) "Fund" means the Marijuana Control Fund established pursuant to Section 26210.

(l) "Kind" means applicable type or designation regarding a particular marijuana variant or marijuana product type, including, but not limited to, strain name or other grower trademark, or growing area designation.

(m) "License" means a state license issued under this division.

(n) "Licensee" means any person or entity holding a license under this division.

(o) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

(p) "Local jurisdiction" means a city, county, or city and county.

(q) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

(r) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.

(s) "Marijuana" has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.

(t) "Marijuana accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.

(u) "Marijuana products" has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.

(v) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.

(w) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.

(x) "Package" means any container or receptacle used for holding marijuana or marijuana products.

(y) "Person" includes any individual, firm, copartnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(z) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.

(aa) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

(bb) "Testing service" means a laboratory, facility, or entity in the state, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the state.

(2) Registered with the State Department of Public Health.

(cc) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises.

(dd) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.

(ee) "Youth center" shall have the same meaning as in Section 11353.1 of the Health and Safety Code.

## CHAPTER 2. ADMINISTRATION

26010. (a) The Bureau of Medical Marijuana Regulation established in Section 19302 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 (commencing with Section 19300) of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.

(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under Chapter 3.5 (commencing with Section 19300) of Division 8.

(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in subdivision (b), the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.

(d) Upon the effective date of this section, whenever "Bureau of Medical Marijuana Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

26011. Neither the chief of the bureau nor any member of the Marijuana Control Appeals Panel established under Section 26040 shall do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division or Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.

(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial marijuana activity.

(d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

(e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

26012. (a) It being a matter of statewide concern, except as otherwise authorized in this division:

(1) The Department of Consumer Affairs shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana within the state.

(2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of marijuana. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this division.

(3) The State Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana. The State Department of Public Health shall have the authority to create, issue, and suspend or revoke manufacturing and testing licenses for violations of this division.

(b) The licensing authorities and the bureau shall have the authority to collect fees in connection with activities they regulate concerning marijuana. The bureau may create licenses in addition to those identified in this division that the bureau deems necessary to effectuate its duties under this division.

(c) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

26013. (a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Such rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing

with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance unreasonably impracticable.

26014. (a) The bureau shall convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial marijuana activity that does not impose such unreasonably impracticable barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.

(b) The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

(c) Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the bureau and licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the bureau or licensing authorities.

26015. A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.

26016. For any hearing held pursuant to this division, except a hearing held under Chapter 4 (commencing with Section 26040), a licensing authority may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

26017. In any hearing before a licensing authority pursuant to this division, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

26018. A licensing authority may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

## CHAPTER 3. ENFORCEMENT

26030. *Grounds for disciplinary action include:*

- (a) *Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.*
- (b) *Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.*
- (c) *Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.*
- (d) *Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.*
- (e) *Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.*
- (f) *Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.*
- (g) *The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.*

26031. *Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.*

26032. *Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial marijuana activity.*

26033. *Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.*

26034. *Accusations against licensees under this division shall be filed within the same time limits as specified in Section 19314 or as otherwise provided by law.*

26035. *The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.*

26036. *Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.*

26037. (a) *The actions of a licensee, its employees, and its agents that are (1) permitted under a license issued under this division and any applicable local ordinances and (2) conducted in accordance with the requirements of this division and regulations adopted pursuant to this division, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction*

*under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.*

(b) *The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and any applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.*

26038. (a) *A person engaging in commercial marijuana activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of marijuana associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b).*

(b) *If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.*

(c) *Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial marijuana activity in violation of this division.*

## CHAPTER 4. APPEALS

26040. (a) *There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.*

(b) *The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption or incompetency.*

(c) *A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if 5 Members of the Senate, or 10 Members of the Assembly, join as authors.*

26041. *All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform*

such other mechanics of administration as the panel and the director may agree upon.

26042. The panel shall adopt procedures for appeals similar to the procedures used in Article 3 (commencing with Section 23075) and Article 4 (commencing with Section 23080) of Chapter 1.5 of Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

26043. (a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the bureau or the licensing authority.

(b) Review by the panel of a decision of the bureau or a licensing authority shall be limited to the following questions:

- (1) Whether the bureau or any licensing authority has proceeded without or in excess of its jurisdiction.
- (2) Whether the bureau or any licensing authority has proceeded in the manner required by law.
- (3) Whether the decision is supported by the findings.
- (4) Whether the findings are supported by substantial evidence in the light of the whole record.

26044. (a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the bureau or licensing authority, it may enter an order remanding the matter to the bureau or licensing authority for reconsideration in the light of such evidence.

(b) Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the bureau or licensing authority. When the order reverses the decision of the bureau or licensing authority, the board may direct the reconsideration of the matter in the light of its order and may direct the bureau or licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the bureau or licensing authority.

26045. Orders of the panel shall be subject to judicial review under Section 1094.5 of the Code of Civil Procedure upon petition by the bureau or licensing authority or any party aggrieved by such order.

#### CHAPTER 5. LICENSING

26050. (a) The license classification pursuant to this division shall, at a minimum, be as follows:

- (1) Type 1—Cultivation; Specialty outdoor; Small.
- (2) Type 1A—Cultivation; Specialty indoor; Small.
- (3) Type 1B—Cultivation; Specialty mixed-light; Small.
- (4) Type 2—Cultivation; Outdoor; Small.
- (5) Type 2A—Cultivation; Indoor; Small.
- (6) Type 2B—Cultivation; Mixed-light; Small.
- (7) Type 3—Cultivation; Outdoor; Medium.

(8) Type 3A—Cultivation; Indoor; Medium.

(9) Type 3B—Cultivation; Mixed-light; Medium.

(10) Type 4—Cultivation; Nursery.

(11) Type 5—Cultivation; Outdoor; Large.

(12) Type 5A—Cultivation; Indoor; Large.

(13) Type 5B—Cultivation; Mixed-light; Large.

(14) Type 6—Manufacturer 1.

(15) Type 7—Manufacturer 2.

(16) Type 8—Testing.

(17) Type 10—Retailer.

(18) Type 11—Distributor.

(19) Type 12—Microbusiness.

(b) All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 (commencing with Section 19300) of Division 8. Examples of such a designation include, but are not limited to, "Type 1—Nonmedical," or "Type 1NM."

(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.

(e) Notwithstanding subdivision (c), a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operative on January 1, 2019.

26051. (a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:

(1) Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;

(2) Perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;

(3) Encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;

(4) Result in an excessive concentration of licensees in a given city, county, or both;

(5) Present an unreasonable risk of minors being exposed to marijuana or marijuana products; or

(6) Result in violations of any environmental protection laws.

(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a).

(c) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:

(1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in

the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.

(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

26052. (a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:

(1) Make any contract in restraint of trade in violation of Section 16600;

(2) Form a trust or other prohibited organization in restraint of trade in violation of Section 16720;

(3) Make a sale or contract for the sale of marijuana or marijuana products, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of such seller, where the effect of such sale, contract, condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce;

(4) Sell any marijuana or marijuana products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers;

(5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing marijuana or marijuana products at a lower price in one section, community, or city or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition; or

(6) Sell any marijuana or marijuana products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

(b) Any person who, either as director, officer or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which such person acts.

(c) A licensing authority may enforce this section by appropriate regulation.

(d) Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

26053. (a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) Notwithstanding subdivision (a), a person or entity that holds a state testing license under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 is prohibited from licensure for any other activity, except testing, as authorized under this division.

(c) Except as provided in subdivision (b), a person or entity may apply for and be issued more than one license under this division.

26054. (a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 (commencing with Section 23000) or of tobacco products.

(b) No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

(c) It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana products are obtained from a person or entity licensed under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 permitted to provide or deliver such marijuana or marijuana products.

26054.1. (a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.

(b) Subdivision (a) shall cease to be operative on December 31, 2019, unless reenacted prior thereto by the Legislature.

26054.2. (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any applicable local laws. The bureau shall make the requested information available to licensing authorities.

(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or Chapter 3.5 (commencing with Section 19300) of Division 8. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

(d) This section shall cease to be operative on December 31, 2019, unless otherwise provided by law.

26055. (a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within

California until the licensing authority reinstates or reissues the state license.

(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.

(d) After issuance or transfer of a license, no licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

26056. An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:

(a) Notwithstanding paragraph (2) of subdivision (a) of Section 19322, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;

(b) An application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and

(c) For applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) The inventory process.

(5) Quality control procedures.

(6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.

(d) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and

individual square footage of separate cultivation areas, if any.

26056.5. The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), lake or streambed alteration agreements (Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code), the Clean Water Act (33 U.S.C. Sec. 1251 et seq.), the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.

26057. (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow and water quality.

(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

(3) Failure to provide information required by the licensing authority.

(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(C) A felony conviction involving fraud, deceit, or embezzlement.

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to

furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

(6) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities or commercial medical cannabis activities, has had a license revoked under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Section 12025 or 12025.1 of the Fish and Game Code.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) Any other condition specified in law.

26058. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing.

26059. An applicant shall not be denied a state license if the denial is based solely on any of the following:

(a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

#### CHAPTER 6. LICENSED CULTIVATION SITES

26060. (a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.

(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis shall apply to licensed cultivators under this division.

(c) The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control

Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(d) The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana activity, the same matters described in subdivision (e) of Section 1932.

(e) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor, outdoor, or mixed light cultivation of marijuana meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

26061. (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.

(b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in subdivision (g) of Section 19332.

(c) Except as otherwise provided by law:

(1) Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

(2) Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(3) Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

(e) Commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

26062. The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 1932.5.

26063. (a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.

(b) Marijuana shall not be marketed, labeled, or sold as grown in a California county when the marijuana was not grown in that county.

(c) The name of a California county shall not be used in the labeling, marketing, or packaging of marijuana products unless the marijuana contained in the product was grown in that county.

26064. Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.

26065. An employee engaged in the cultivation of marijuana under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

26066. Indoor and outdoor marijuana cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of marijuana cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

26067. (a) The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the Secretary of Food and Agriculture. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.

(b) A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.

(c) (1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.

(B) Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.

(2) The department shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each marijuana plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.

(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26170.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each marijuana plant.

(D) The department may promulgate regulations to implement this section.

(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(e) (1) This section does not apply to the cultivation of marijuana in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.

(2) Subdivision (b) does not apply to persons or entities licensed under either paragraph (3) of subdivision (a) of Section 26070 or subdivision (b) of Section 26070.5.

(f) "Department" for purposes of this section means the Department of Food and Agriculture.

#### CHAPTER 7. RETAILERS AND DISTRIBUTORS

##### 26070. Retailers and Distributors.

(a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1) "Retailer," for the retail sale and delivery of marijuana or marijuana products to customers.

(2) "Distributor," for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3) "Microbusiness," for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent

unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:

(1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized personnel.

(3) Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

26070.5. (a) The bureau shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low-income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low-income persons so long as the local jurisdiction:

(1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;

(2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;

(3) Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;

(4) Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this

division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

#### CHAPTER 8. DISTRIBUTION AND TRANSPORT

26080. (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, marijuana or marijuana products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with this division.

#### CHAPTER 9. DELIVERY

26090. (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

(b) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

#### CHAPTER 10. MANUFACTURERS AND TESTING LABORATORIES

26100. The State Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:

(a) "Manufacturing Level 1," for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.

(b) "Manufacturing Level 2," for sites that manufacture marijuana products using volatile solvents.

(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the department. A testing licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.

(d) For purposes of this section, "volatile solvents" shall have the same meaning as in subdivision (d) of Section 11362.3 of the Health and Safety Code unless otherwise provided by law or regulation.

26101. (a) Except as otherwise provided by law, no marijuana or marijuana products may be sold pursuant to a license provided for under this division unless a representative sample of such marijuana or marijuana

product has been tested by a certified testing service to determine:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following:

- (A) Tetrahydrocannabinol (THC).
- (B) Tetrahydrocannabinolic Acid (THCA).
- (C) Cannabidiol (CBD).
- (D) Cannabidiolic Acid (CBDA).
- (E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.
- (F) Cannabigerol (CBG).
- (G) Cannabinol (CBN).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals, including explosive gases, such as Butane, propane, O<sub>2</sub> or H<sub>2</sub>, and poisons, toxins, or carcinogens, such as Methanol, Isopropyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopeia (U.S.P. Chapter 467).

(c) The testing required by paragraph (a) shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(d) Any pre-sale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

26102. A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 or unless otherwise provided by law.

26103. A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 or unless otherwise provided by law.

26104. (a) A licensed testing service shall, in performing activities concerning marijuana and marijuana products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The State Department of Public Health shall develop procedures to:

(1) Ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5;

(2) Specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators and the cost of testing marijuana products shall be borne by the licensed manufacturer, and that the costs of testing marijuana and marijuana products shall be borne by a nonprofit licensed under Section 26070.5; and

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the State Department of Public Health, unless remedial measures can bring the marijuana or marijuana products into compliance with quality assurance standards as promulgated by the State Department of Public Health.

26105. Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The State Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

26106. Standards for the production and labeling of all marijuana products developed by the State Department of Public Health shall apply to licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5 unless otherwise specified by the State Department of Public Health.

#### CHAPTER 11. QUALITY ASSURANCE, INSPECTION, AND TESTING

26110. (a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.

(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326, except as otherwise provided in this division or by law.

#### CHAPTER 12. PACKAGING AND LABELING

26120. (a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.

(b) Packages and labels shall not be made to be attractive to children.

(c) All marijuana and marijuana product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

(1) Manufacture date and source.

(2) The following statements, in bold print:

(A) For marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY

TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(B) For marijuana products: "GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED UP TO TWO HOURS. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(3) For packages containing only dried flower, the net weight of marijuana in the package.

(4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the date of manufacturing and packaging.

(5) The appellation of origin, if any.

(6) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.

(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in Section 101.9 of Title 21 of the Code of Federal Regulations.

(8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.

(9) A warning if nuts or other known allergens are used.

(10) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(11) Any other requirement set by the bureau or the State Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible marijuana products.

(e) In the event the bureau determines that marijuana is no longer a schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that marijuana is a schedule I controlled substance.

### CHAPTER 13. MARIJUANA PRODUCTS

26130. (a) Marijuana products shall be:

(1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.

(2) Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

(3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.

(4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(5) Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.

(6) Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

(b) Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

### CHAPTER 14. PROTECTION OF MINORS

26140. (a) No licensee shall:

(1) Sell marijuana or marijuana products to persons under 21 years of age.

(2) Allow any person under 21 years of age on its premises.

(3) Employ or retain persons under 21 years of age.

(4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), a licensee that is also a dispensary licensed under Chapter 3.5 (commencing with Section 19300) of Division 8 may:

(1) Allow on the premises any person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card;

(2) Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

### CHAPTER 15. ADVERTISING AND MARKETING RESTRICTIONS

26150. For purposes of this chapter:

(a) "Advertise" means the publication or dissemination of an advertisement.

(b) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television

broadcast, or in any other media; except that such term shall not include:

(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.

(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

(c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.

(e) "Market" or "Marketing" means any act or process of promoting or selling marijuana or marijuana products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

26151. (a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.

(b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d) All advertising shall be truthful and appropriately substantiated.

26152. No licensee shall:

(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression;

(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;

(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label

of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;

(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;

(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;

(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption; or

(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

26153. No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

26154. No licensee shall publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

26155. (a) The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.

(b) This chapter does not apply to any noncommercial speech.

#### CHAPTER 16. RECORDS

26160. (a) A licensee shall keep accurate records of commercial marijuana activity.

(b) All records related to commercial marijuana activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

(c) The bureau may examine the books and records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.

(e) A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.

(f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation

and fine of up to thirty thousand dollars (\$30,000) per individual violation.

26161. (a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau or Board of Equalization and shall not be commingled with invoices covering other commodities.

(b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:

(1) Name and address of the purchaser.

(2) Date of sale and invoice number.

(3) Kind, quantity, size, and capacity of packages of marijuana or marijuana products sold.

(4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.

(5) The place from which transport of the marijuana or marijuana product was made unless transport was made from the premises of the licensee.

(6) Any other information specified by the bureau or the licensing authority.

#### CHAPTER 17. TRACK AND TRACE SYSTEM

26170. (a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under Article 7.5 (commencing with Section 19335) of Chapter 3.5 of Division 8 to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.

(c) Any software, database or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of

updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

#### CHAPTER 18. LICENSE FEES

26180. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

26181. The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

#### CHAPTER 19. ANNUAL REPORTS; PERFORMANCE AUDIT

26190. Beginning on March 1, 2020, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the same type of information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

26191. (a) Commencing January 1, 2019, and by January 1 of each year thereafter, the California State Auditor's Office shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

(1) The actual costs of the program.

(2) The overall effectiveness of enforcement programs.

(3) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(b) The Legislature shall provide sufficient funds to the California State Auditor's Office to conduct the annual audit required by this section.

## CHAPTER 20. LOCAL CONTROL

26200. (a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(b) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 10 days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 (commencing with Section 26030) to determine whether a license issued to the licensee should be suspended or revoked.

(d) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:

(1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older; (2) Marijuana consumption is not visible from any public place or non-age restricted area; and

(3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

26201. Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.

(b) The bureau or any licensing authority shall implement the delegation of enforcement authority in subdivision (a) through a memorandum of understanding between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

## CHAPTER 21. FUNDING

26210. (a) The Medical Cannabis Regulation and Safety Act Fund established in Section 19351 is hereby renamed the Marijuana Control Fund.

(b) Upon the effective date of this section, whenever "Medical Cannabis Regulation and Safety Act Fund" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Marijuana Control Fund.

26211. (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the Board of Equalization under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

(1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the Board of Equalization, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

(2) Within 45 days of this section becoming operative:

(A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Marijuana Control Fund that does not exceed thirty million dollars (\$30,000,000), and

(B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Marijuana Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

(c) The State Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of marijuana and marijuana products to persons under the age of 21 years, describe the penalties for providing access to marijuana and marijuana products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from marijuana use, the potential harms of using marijuana while pregnant or breastfeeding, and the potential harms of overusing marijuana or marijuana products.

SEC. 6.2. Section 147.6 is added to the Labor Code, to read:

147.6. (a) By March 1, 2018, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code, including but not limited to, whether specific requirements are needed to address exposure to second-hand marijuana smoke by employees at facilities where on-site consumption

of marijuana is permitted under subdivision (d) of Section 26200 of the Business and Professions Code, and whether specific requirements are needed to address the potential risks of combustion, inhalation, armed robberies or repetitive strain injuries.

(b) By October 1, 2018, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By October 1, 2018, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

SEC. 6.3. Section 13276 of the Water Code is amended to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.

(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation and commercial marijuana cultivation under Division 10 of the Business and Professions Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:

- (1) Site development and maintenance, erosion control, and drainage features.
- (2) Stream crossing installation and maintenance.
- (3) Riparian and wetland protection and management.
- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

SEC. 7. Marijuana Tax.

SEC. 7.1. Part 14.5 (commencing with Section 34010) is added to Division 2 of the Revenue and Taxation Code, to read:

#### PART 14.5. MARIJUANA TAX

34010. For purposes of this part:

(a) "Board" shall mean the Board of Equalization or its successor agency.

(b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.

(c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.

(d) "Marijuana" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.

(e) "Marijuana products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.

(f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the board.

(g) "Marijuana leaves" shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.

(h) "Gross receipts" shall have the same meaning as set forth in Section 6012.

(i) "Retail sale" shall have the same meaning as set forth in Section 6007.

(j) "Person" shall have the same meaning as set forth in Section 6005.

(k) "Microbusiness" shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

(l) "Nonprofit" shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

34011. (a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of 15 percent of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.

(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if nonitemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.

(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.

(d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.

(f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(g) The sales and use tax imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code. The tax shall be due after the marijuana is harvested.

(1) The tax for marijuana flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

(2) The tax for marijuana leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.

(c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.

(d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.

(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.

(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

(d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

34014. (a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code without a permit or after a permit has been canceled,

*suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.*

*(b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation has been properly prepared, executed and submitted under this part.*

*(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.*

**34015.** *(a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.*

*(b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.*

**34016.** *(a) Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.*

*(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.*

*(2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.*

*(3) Inspections shall be requested or conducted no more than once in a 24-hour period.*

*(b) Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.*

*(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.*

*(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.*

*(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.*

*(f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.*

**34017.** *The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.*

**34018.** *(a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.*

*(b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.*

*(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of*

subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

34019. (a) Beginning with fiscal year 2017–2018 the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022–2023.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 (commencing with Section 19300) of Division 8 and Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018–2019 until fiscal year 2028–2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their

findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

(10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018–2019 until fiscal year 2022–2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and

adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018–2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022–2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in fiscal year 2018–2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster

care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The departments may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated

assessments or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual

General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022–2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022–2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027–2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

34020. The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.

34021. The taxes imposed by this part shall be in addition to any other tax imposed by a city, county, or city and county.

34021.5. (a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

#### SEC. 8. Criminal Offenses, Records, and Resentencing.

SEC. 8.1. Section 11357 of the Health and Safety Code is amended to read:

11357. Possession. (a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior

convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

(b) (a) Except as authorized by law, every person who possesses possession of not more than 28.5 grams of marijuana, other than or not more than four grams of concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100), or both, shall be punished or adjudicated as follows:

(1) Persons under the age of 18 shall be guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.

(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.

(2) Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).

(c) (b) Except as authorized by law, every person who possesses possession of more than 28.5 grams of marijuana, or more than four grams of other than concentrated cannabis, shall be punished as follows:

(1) Persons under the age of 18 who possess more than 28.5 grams of marijuana or more than four grams of concentrated cannabis, or both, shall be guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

(2) Persons 18 years of age or over who possess more than 28.5 grams of marijuana, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(d) (c) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a as follows:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

(e) (d) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of

marijuana, or not more than four grams of ether than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a ~~misdemeanor an infraction~~ and shall be punished in the same manner provided in paragraph (1) of subdivision (b), subject to the following dispositions:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

SEC. 8.2. Section 11358 of the Health and Safety Code is amended to read:

*11358. Planting, Harvesting, or Processing.*

Every person who plants, cultivates, harvests, dries, or processes any marijuana plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who plants, cultivates, harvests, dries, or processes any marijuana plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living marijuana plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Every person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants, or any part thereof, except as otherwise provided by law, shall may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (c); or

(3) The offense resulted in any of the following:

(A) Violation of Section 1052 of the Water Code relating to illegal diversion of water;

(B) Violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of waste;

(C) Violation of Fish and Game Code Section 5650 or Section 5652 of the Fish and Game Code relating to waters of the state;

(D) Violation of Section 1602 of the Fish and Game Code relating to rivers, streams and lakes;

(E) Violation of Section 374.8 of the Penal Code relating to hazardous substances or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste;

(F) Violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act; or

(G) Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

SEC. 8.3. Section 11359 of the Health and Safety Code is amended to read:

*11359. Possession for Sale.*

Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who possesses marijuana for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person 18 years of age or over who possesses marijuana for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (b); or

(3) The offense occurred in connection with the knowing sale or attempted sale of marijuana to a person under the age of 18 years.

(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any marijuana.

SEC. 8.4. Section 11360 of the Health and Safety Code is amended to read:

*11360. Unlawful Transportation, Importation, Sale, or Gift.*

(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished as follows:

(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.

(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three or four years if:

(A) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(B) The person has two or more prior convictions under paragraph (2);

(C) The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer or give away marijuana to a person under the age of 18 years; or

(D) The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of marijuana or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an *infraction* misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, "transport" means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

SEC. 8.5. Section 11361.1 is added to the Health and Safety Code, to read:

11361.1. (a) The drug education and counseling requirements under Sections 11357, 11358, 11359, and 11360 shall be:

(1) Mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

(2) Free to participants, and the drug education provides at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under Sections 11357, 11358, 11359, and 11360.

SEC. 8.6. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. *Destruction of Arrest and Conviction Records; Procedure; Exceptions.*

(a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of subdivision (b), (c), (d), or (e) of Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (e) (d) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and such records must also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall begin to run from the date the person is released from custody. The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be

accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more

than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 8.7. Section 11361.8 is added to the Health and Safety Code, to read:

*11361.8. (a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.*

*(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.*

*(1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.*

*(2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.*

*(c) A person who is serving a sentence and is resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Section 3000.08 of the Penal Code or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.*

*(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.*

*(e) A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358,*

11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.

(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).

(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.

(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under the Control, Regulate and Tax Adult Use of Marijuana Act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).

(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.

(n) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

## SEC. 9. Industrial Hemp.

SEC. 9.1. Section 11018.5 of the Health and Safety Code is amended to read:

### 11018.5. Industrial Hemp.

(a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to nonpsychoactive types of the plant *Cannabis sativa L.* and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, the resin extracted from any part of the plant; and any other compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or mature

stalks, except the resin or flowering tops extracted produced therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.

(b) The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

SEC. 9.2. Section 81000 of the Food and Agricultural Code is amended to read:

### 81000. Definitions.

For purposes of this division, the following terms have the following meanings:

(a) "Board" means the Industrial Hemp Advisory Board.

(b) "Commissioner" means the county agricultural commissioner.

(c) "Established agricultural research institution" means a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; any institution that is either:

(1) A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or

(2) An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.

(d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.

(e) "Secretary" means the Secretary of Food and Agriculture.

(f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.

(g) "Seed cultivar" means a variety of industrial hemp.

(h) "Seed development plan" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

SEC. 9.3. Section 81006 of the Food and Agricultural Code is amended to read:

### 81006. Industrial Hemp Growth Limitations; Prohibitions; Imports; Laboratory Testing.

(a) (1) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than five acres one-tenth of an acre at the same time and no portion of an

acreage of industrial hemp shall include plots of less than one contiguous acre.

(2) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than *one-tenth of an* two acres at the same time and ~~no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre.~~

(3) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than *one-tenth of an* acre and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.

(b) Ornamental and clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.

(c) Pruning and tending of individual industrial hemp plants is prohibited, except when grown by an established agricultural research institution or when the action is necessary to perform the tetrahydrocannabinol (THC) testing described in this section.

(d) Culling of industrial hemp is prohibited, except when grown by an established agricultural research institution, when the action is necessary to perform the THC testing described in this section, or for purposes of seed production and development by a registered seed breeder.

(e) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.

(f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.

(1) Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.

(2) The entire fruit-bearing part of the plant including the seeds shall be used as a sample. The sample cut shall be made directly underneath the inflorescence found in the top one-third of the plant.

(3) The sample collected for THC testing shall be accompanied by the following documentation:

(A) The registrant's proof of registration.

(B) Seed certification documentation for the seed cultivar used.

(C) The THC testing report for each certified seed cultivar used.

(4) The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC,

shall indicate the date and location of samples taken, and shall state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.

(5) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.

(6) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the registrant that grows industrial hemp shall submit additional samples for testing of the industrial hemp grown.

(7) A registrant that grows industrial hemp shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of THC exceeds 1 percent, the destruction shall take place within 48 hours after receipt of the laboratory test report. If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after receipt of the second test report.

(8) A registrant that intends to grow industrial hemp and who complies with this section shall not be prosecuted for the cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.

(9) Established agricultural research institutions shall be permitted to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this division.

(10) Except for an established agricultural research institution, a registrant that grows industrial hemp shall retain an original signed copy of the laboratory test report for two years from its date of sampling, make an original signed copy of the laboratory test report available to the department, the commissioner, or law enforcement officials or their designees upon request, and shall provide an original copy of the laboratory test report to each person purchasing, transporting, or otherwise obtaining from the registrant that grows industrial hemp the fiber, oil, cake, or seed, or any component of the seed, of the plant.

(g) If, in the Attorney General's opinion issued pursuant to Section 8 of the act that added this division, it is determined that the provisions of this section are not sufficient to comply with federal law, the department, in

consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

SEC. 9.4. Section 81007 of the Food and Agricultural Code is repealed.

~~81007. (a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.~~

~~(b) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.~~

SEC. 9.5. Section 81008 of the Food and Agricultural Code is amended to read:

*81008. Attorney General Reports; Requirements.*

~~(a) Not later than January 1, 2019, or five years after the provisions of this division are authorized under federal law, whichever is later, the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:~~

~~(1) A field of industrial hemp being used to disguise marijuana cultivation.~~

~~(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.~~

~~(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.~~

SEC. 9.6. Section 81010 of the Food and Agricultural Code is amended to read:

*81010. Operation of Division.*

~~(a) This division, and Section 221 shall not become operative unless authorized under federal law on January 1, 2017.~~

~~(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 (commencing with Section 26000) of the Business and Professions Code.~~

SEC. 10. Amendment.

This act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this act contained in Sections 5 to 5.5, inclusive, and Sections 6 to 6.3, inclusive, to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this act as stated in Section 3. Amendments to this act that enact protections for employees and other workers of licensees under Sections 6 to 6.3, inclusive, of this act

that are in addition to the protections provided for in this act or that otherwise expand the legal rights of such employees or workers of licensees under Sections 6 to 6.3, inclusive, of this act shall be deemed to be consistent with and further the purposes and intent of this act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this act. Except as otherwise provided, the provisions of the act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the act.

SEC. 11. Construction and Interpretation.

The provisions of this act shall be liberally construed to effectuate the purposes and intent of the Control, Regulate and Tax the Adult Use of Marijuana Act; provided, however, no provision or provisions of this act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the federal Controlled Substances Act, such that the provision or provisions of this act and federal law cannot consistently stand together.

SEC. 12. Severability.

If any provision in this act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 13. Conflicting Initiatives.

In the event that this measure and another measure or measures concerning the control, regulation, and taxation of marijuana, medical marijuana, or industrial hemp appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

## PROPOSITION 65

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Public Resources Code; therefore, new provisions proposed to be added are printed in *italic* type to indicate that they are new.

## PROPOSED LAW

### SECTION 1. Title.

This act shall be known and may be cited as the Environmental Fee Protection Act.

### SEC. 2. Findings and Declarations.

The people of the State of California find and declare as follows:

(a) In 2014, the California State Legislature enacted a ban on plastic carryout bags after lobbying by special interests including the California Grocers Association.

(b) The law further mandated that stores sell every paper or reusable carryout bag they provide to consumers for a minimum of 10 cents. Stores can charge even more if they so choose, and the grocers and retailers are specifically

Pages 211-223  
Intentionally Omitted

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Last day that county elections officials will accept any voter's application for a vote-by-mail ballot.

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# EXHIBIT B

(Relevant Excerpts from Bureau of Cannabis Control California Code of Regulations Title 16, Division 42 – Medicinal and Adult-Use Cannabis Regulation Initial Statement of Reasons)

**BUREAU OF CANNABIS CONTROL**  
**CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 42**  
**MEDICINAL AND ADULT-USE CANNABIS REGULATION**  
**INITIAL STATEMENT OF REASONS**

**SUBJECT MATTER OF PROPOSED REGULATIONS:** Medicinal and Adult-Use Cannabis Regulation

**SECTIONS AFFECTED:** §§5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5007.1, 5008, 5009, 5010, 5010.1, 5010.2, 5010.3, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5052.1, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5303.1, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5402, 5403, 5403.1, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5425, 5426, 5427, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507, 5600, 5601, 5602, 5603, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814, 5815, 5900, 5901, 5902, 5903 and 5904.

**BACKGROUND**

The Medical Cannabis Regulation and Safety Act (MCRSA) was established through a series of bills passed by the California State Legislature in 2015 and 2016. (Bus. & Prof. Code, § 19300 et seq.) The MCRSA established the Bureau (known in that legislation as the Bureau of Medical Cannabis Regulation) under the California Department of Consumer Affairs and created California's first framework for the licensing, regulation, and enforcement of commercial medicinal cannabis activity. The Bureau held multiple pre-regulatory meetings in late summer/early fall of 2016 and proposed regulations under the MCRSA in April and May of 2017. The Bureau also held regulatory hearings for the proposed MCRSA regulations, which were withdrawn in September of 2017.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was established with the passage of Proposition 64, a voter initiative, in November 2016. The AUMA legalized the nonmedicinal adult use of cannabis; established California's framework for the licensing, regulation, and enforcement of commercial nonmedicinal cannabis activity; and set a date of January 1, 2018, for the Bureau to start issuing licenses.

In June 2017, the California State Legislature passed a budget trailer bill, Senate Bill 94, that integrated MCRSA with AUMA and created the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). (Bus. & Prof. Code, § 26000 et seq.) Under MAUCRSA, a single regulatory system will govern the cannabis industry (both medicinal

and adult-use) in California. Under MAUCRSA, the Bureau is charged with the licensing, regulation, and enforcement of the following types of commercial cannabis businesses: distributors, retailers, microbusinesses, temporary cannabis events, and testing laboratories, MAUCRSA provides that the Bureau must begin issuing licenses on January 1, 2018.

On January 1, 2018, the Bureau began issuing licenses for medicinal and adult-use cannabis activities relating to retail, distribution, microbusiness, testing laboratories, and cannabis events. These licensed commercial cannabis businesses are in operation under the emergency regulations adopted on December 7, 2017 and readopted on June 6, 2017.

### **License Designations – “A” and “M” Commercial Cannabis Activity**

In these regulations, the Bureau, along with the Departments of Food and Agriculture and Public Health, propose to allow licensees to conduct business with each other irrespective of their designation as adult-use (A-designated) and medicinal (M-designated) licenses. This allowance will prevent the need for licensees to obtain both an A-designated and an M-designated license and pay twice the license and application fees for the same premises if they wanted to transact both lines of business. These proposed regulations would streamline commerce and reduce paperwork by requiring applicants to obtain a single license and pay one license fee in order to conduct A-designated and M-designated business in one location.

While the MAUCRSA contains a number of requirements for commercial cannabis activity, only a small number of differences exist between A-designated and M-designated licenses – differences that arise only at the customer point of sale. The A-designation or M-designation does not otherwise impact the cannabis cultivation or supply chain. For instance, a retailer must have a license with an M-designation to sell cannabis goods to an individual between 18 and 21 years of age who has a physician’s recommendation. (Bus. & Prof. Code, § 26140, subd. (a).) Similarly, in order to sell cannabis products of a particular per-package THC limit, a retailer must have an M-designated license. (Cal. Code Regs., tit. 17, § 40306.) Indeed, all of the differences between A-designated and M-designated licenses relate only to the retail sale of cannabis goods to adult-use customers versus medicinal customers.

### **History of the Separate Adult-Use and Medicinal Licenses**

Initially, in the emergency regulations adopted on December 7, 2017, the licensing authorities determined that during a transitional period from January 1, 2018 through June 30, 2018, it was necessary to allow A-designated and M-designated licensees to conduct business with each other irrespective of the designation because the adult-use market was new and there would be no place to obtain cannabis goods except for from the existing medicinal market. Following the transitional period, the licensing authorities had prescribed the requirement that A-designated licensees could only do business with other A-designated licensees and M-designated licensees could only do business with other M-designated licensees. For instance, a cultivator with an M-designated license could only sell to a retailer who also possessed an M-designated license.

After noticing the initial emergency regulations, the licensing authorities received feedback from licensees, potential licensees, and the Cannabis Advisory Committee that the transition period should be extended, or the provision allowing licensees to do business with other

licensees regardless of the A-designation or M-designation should be made permanent. Licensees have expressed concerns that if the supply chains are separate for A-designated and M-designated licensees, either supply chain could end up with a shortage or an excess of cannabis goods. In either scenario, licensees and customers may be encouraged to turn to the illicit market to either divert excess cannabis goods or to purchase cannabis goods.

Of note, since the commercial cannabis market began on January 1, 2018, the licensing authorities have not been made aware of any public health or safety threat that has been created during the transitional period as a result of allowing commercial cannabis activity between the market designations. Additionally, requiring two separate licenses for the same activity on the same premises means that licensing authorities must require two applications as well as duplicates of other items, such as the bond required by Business and Professions Code section 26051.5 (a)(10). This inefficient duplication increases costs for the licensing authorities and the licensees. Further, the number of licensed cannabis businesses is still relatively low when compared to the number of businesses in operation before January 1, 2018. The reasons for this are varied, but a substantial contribution is due to the lack of locally-available licenses; many jurisdictions are still developing their local cannabis programs.

Based on feedback from stakeholders and the Cannabis Advisory Committee, the licensing authorities have further reviewed the MAUCRSA and have determined that it should be implemented in a manner that allows licensees to buy or sell cannabis or cannabis products to each other irrespective of their A-designation or M-designation. Business and Professions Code section 26053 (a) states that all commercial cannabis activity shall be conducted between licensees. However, nothing in the MAUCRSA expressly states that A-designated licensees may only do business with other A-designated licensees or that M-designated licensees may only do business with other M-designated licensees. Further, Business and Professions Code section 26013 (c), which provides direction to licensing authorities and states that regulations shall not “make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson.” The licensing authorities have determined that there is a high likelihood that requiring the A-designated and M-designated supply chains to remain separate will perpetuate, rather than reduce and eliminate, the illicit market for cannabis. Licensees that are unable to acquire cannabis goods or sell their cannabis goods because of under saturation or over saturation of cannabis goods within their supply chain would be placed in a position where they determine that the requirement of complying with a separate supply chain for A-designated and M-designated cannabis goods is so onerous that continuing to operate under their cannabis license is not worthy of being carried out. When the Bureau readopted its emergency regulations. The Bureau allowed for licenses with both designations. This has stream lined the process and reduced costs for most licensees with both designations.

Continuing to issue licenses with an A-designation and M-designation, and allowing licensees to conduct business with other licensees regardless of the A-designation and M-designation is necessary to avoid increased costs due to the duplication of applications and allows licensees the ability to procure and sell product based on the commercial cannabis market’s demands. This is consistent with Business and Professions Code section 26050, subdivision (b), which requires licensing authorities to affix an A or M on each license.

Nothing in that section prohibits licensing authorities from affixing both designations, and indeed it expressly provides that, with limited exceptions stated in statute, “the requirements for A-licenses and M-licenses shall be the same.” (Bus. & Prof. Code, § 26050, subd. (b).) While licensing authorities do not have discretion to require testing laboratories to have separate A-designated and M-designated licenses, the entities are exercising their discretion to permit the holders of other license types to fill out one application, pay one license fee, and obtain one license rather than insisting on the formality of two licenses, particularly when there are virtually no distinctions between A-designated and M-designated licenses identified by statute. Where MAUCRSA or local ordinances require such a distinction to be made, the Bureau will require an M-designation or A-designation, as appropriate.

#### **REQUIREMENTS APPLICABLE TO ALL APPLICANTS AND LICENSEES**

##### **STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS**

With the passage of the MAUCRSA, the Bureau was established to create a comprehensive and coherent regulatory framework for an established industry that had not been comprehensively regulated by the state. While the MAUCRSA provides guidance on the larger macro issues, much of the implementation specifics and clarification of terms were left to the Bureau. There are many terms and phrases that will apply to all Bureau applicants and licensees regardless of license type. These proposed regulations will help applicants and licensees better understand: (1) the applicable meaning of key statutory and other terms related to the Bureau’s licensing program; (2) what documents and information are required in an application for licensure; and (3) specific clarification of prohibitions, requirements, or other conditions for compliance with the MAUCRSA.

First, the proposed regulations seek to clarify the applicable meaning of key statutory terms and other terms used within the regulations. These terms include those relevant to requirements of licensees, such as “cannabis waste,” “limited-access area,” “medicinal cannabis patient,” and “retail area.”

Second, the proposed regulations clarify what documents and information are required to complete an application for all license types issued by the Bureau. Within MAUCRSA, the Legislature recognized the current medical cannabis goods marketplace and provided for the issuance of temporary licenses that would allow an applicant, who has been approved by the local jurisdiction to conduct commercial cannabis activity, to operate while they gather the required items for a complete application and while their application is reviewed by the Bureau. The MAUCRSA also provided for priority review of applications for those applicants that were in operation prior to September 1, 2016. The proposed regulations would further explain, specifically, what would be required to demonstrate the pre-conditions set out in MAUCRSA for priority review.

The MAUCRSA expressly requires an applicant to provide certain information to the Bureau for processing an annual license including, but not limited to: evidence of the applicant’s legal right to occupy the proposed premises for their requested commercial cannabis activity; proof of a labor peace agreement, if applicable; proof of fingerprint submission to the Department of Justice; valid seller’s permit number; proof of a bond;

proof of insurance (for distributors); operating procedures; and a premises diagram. The proposed regulations will specify what must be submitted to the Bureau related to these items.

The regulations will identify additional information required for an annual license such as proof that the premises is exempt from or in compliance with the California Environmental Quality Act (CEQA). The proposed regulations would specify what documents may demonstrate proof and would provide the Bureau's process for reviewing previously prepared environmental documents. The proposed regulations would also specify what an applicant may do if a project is exempt from further environmental review pursuant to CEQA and that if the Bureau determines that a project does not qualify for an exemption, then the applicant will be responsible for the costs of preparation of an environmental document. The regulations will also provide that the Bureau may request additional information from the applicant so that the Bureau will have all of the necessary information to appropriately evaluate the application for licensure. The regulations clarify that incomplete applications are abandoned after a specified length of time, and that applications may be withdrawn before the Bureau issues or denies a license.

The proposed regulations would also clarify special terms, prohibitions, and requirements. Specifically, the proposed regulations include a prohibition that no person holding office in, or employed by, any agency of the State of California or any of its political subdivisions charged with enforcement of the Act, may have any financial interest in a related commercial cannabis business. Without a clear prohibition, both State and local agency staff tasked with the enforcement of the Act could legally own or hold an interest in commercial cannabis business creating a potential conflict of interest. This proposed regulation is necessary to ensure that those tasked with enforcing the Act and criminal laws execute their duties and obligations in a fair and objective manner on behalf of the State of California and any of its political subdivisions.

Third, the proposed regulations provide clarification of special terms, prohibitions, requirements, or conditions set forth in the Act that apply to all license types. Specifically, the regulations contain a provision that a license may be denied for a prior conviction that is substantially related to the qualifications, function, or duties of the business for which licensure is sought. The regulations provide further criteria for the Bureau to consider in determining whether or not an applicant, that has been convicted of a crime that is substantially related to the qualifications, functions, or duties, of the business for which licensure is sought, has been sufficiently rehabilitated and is therefore suitable for licensure. These criteria include the nature of the offense; a person's criminal record as a whole; compliance with the terms set by the court; any act that would allow discipline of a license; whether the activity would have been legal if committed at the time of application; dismissal of a conviction; certificate of rehabilitation; and any other evidence submitted. This allows the Bureau to review the applicant's criminal history and rehabilitation fully to ensure applicants are appropriate for licensure, while not barring licensure due to a conviction without considering other mitigating factors.

The proposed regulations also provide for disaster relief, allowing licenses to reasonably conduct the commercial cannabis activities under emergency situations and conditions

limiting or preventing strict compliance with certain requirements. The proposed regulations also provide for the requirements for record keeping, entry into the track and trace system, security, advertising, and returns and destruction, and apply to all Bureau licensees for consistency purposes. These requirements will assist in preventing theft and diversion into the illegal or unregulated market of cannabis goods, and notifications to the Bureau and law enforcement for inventory discrepancies. The regulations elaborate on requirements related to advertising to assure that all advertising is tailored to appropriately-aged customers. The regulations also have requirements for destruction of cannabis goods to ensure that the products that fail testing, or are discarded, do not end up in the illegal or unregulated market, or are accessible to children, to protect the public safety. As the protection of the public is the highest priority for the licensing authorities, the purpose of these proposed regulatory provisions is to provide a framework within the industry that safeguards public health, safety, and welfare while allowing commercial cannabis businesses to engage in the marketplace.

The regulations also provide that a licensee is responsible for the acts of an agent or employee to ensure that licensees do not violate the MAUCRSA or its implementing regulations by allowing others to act for them. Grounds for disciplinary action against a licensee, in addition to those in the MAUCRSA, are included in the Bureau's regulations to prevent changes to the premises without Bureau approval, denying access to the premises for inspection, and impeding investigations.

## **DISTRIBUTORS**

### **STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS**

Distributors play a pivotal role in the commercial cannabis supply chain. Ensuring a seamless transition from the cultivation and manufacturing of the cannabis goods through the distribution process is key to a well-regulated market. Prior to MAUCRSA, there was no state regulatory process for the operation of commercial cannabis distributors. The proposed distributor regulations are designed with three main goals: (1) to ensure that commercial cannabis goods are properly stored, handled, packaged, and tested; (2) to ensure commercial cannabis goods are safely and securely transported between licensees; and (3) to ensure distributors keep and maintain records that are adequate to effectively track and trace commercial cannabis goods, thereby helping to prevent entry of untested commercial cannabis goods into the legal market, and diversion of commercial cannabis goods into the illegal or unregulated market. With these goals in mind, the overall purpose of the regulations is to identify the minimum requirements for holding a state distributor license.

The proposed regulations are designed to ensure that commercial cannabis goods are properly stored, handled, packaged, and tested. The proposed regulations explicitly limit the distributor to storing and distributing cannabis goods, cannabis accessories, licensees' branded merchandise, and promotional materials. This is necessary because of the unique circumstances of cannabis being legal to distribute under California law but not federal law. Because cannabis is still illegal to distribute under federal law, the Bureau and law enforcement must be extra diligent to ensure that cannabis goods are properly identified when conducting compliance checks or searches of cannabis goods either at the premises or

in the transport vehicle. It is important to ensure that a distributor is only storing or transporting cannabis goods that came from other licensees and not from the unregulated market. Limiting the items that can be distributed and stored on the premises to cannabis goods and related items, allows for more efficient tracking of cannabis goods by the licensee and by the licensing authorities. Product checks, or searches can be done in a timely fashion so that the distributor is not delayed in moving the goods through the supply chain.

The proposed regulations would explicitly prohibit a distributor from storing live plants. This is necessary because the storing of live plants for a period of time requires the plants to be maintained through watering and potentially through light or sun exposure. This is a problem because the maintenance a plant needs to stay alive is an activity related to cultivation for which only microbusinesses and cultivators licensed by the CDFA are allowed to do. Therefore, the regulations would prohibit a distributor from storing live plants.

The ability of a distributor to package, repackage, and label commercial cannabis goods for a cultivator licensee will allow more efficient and easier flow of commercial cannabis goods through the distribution chain. However, the proposed regulations prohibit a distributor from accepting commercial cannabis goods that have not already been packaged by the manufacturer that manufactured the products. The Bureau believes this provision is necessary to ensure the quality and safety of manufactured commercial cannabis goods. It ensures that packaging takes place in an environment most conducive to good manufacturing practices for packaging. The proposed regulations will also clarify the proper procedures for sampling commercial cannabis goods for testing and clarifies the quality assurance and testing standards applicable to distributors. Because laboratory testing is one of the integral parts of quality assurance for commercial cannabis goods, it is critical to the industry that the regulations be clear and concise. Therefore, the Bureau proposes that distributors witness sampling in person and that it be recorded on video. These requirements would allow the Bureau to verify the sampling process. This requirement helps to prevent situations of nonexistent or improper sampling, intentional tampering with commercial cannabis goods during sampling, and helps to resolve any disputes between licensees that may arise regarding procedures used to sample.

The proposed regulations also ensure that commercial cannabis goods are safely and securely transported between licensees. For example, limiting transport to roadways and requiring that commercial cannabis goods not be visible are requirements that were selected by the Bureau to mitigate intersections with federal law and regulation and will reduce the probability of theft of shipments. Securely locking the product in a box within the interior of the vehicle, requiring alarm systems, and not permitting the vehicle to be left unattended in a residential neighborhood is required in order to discourage theft and other crimes that may threaten public safety. Distributors may not transport any goods except cannabis goods, cannabis accessories, branded merchandise, and promotional materials. However, a distributor may transport commercial cannabis goods from multiple licensees at the same time. The minimum age for drivers and passengers of licensed transport vehicles is 21 years old. The legal age for a person without a physician's recommendation to possess commercial cannabis goods is 21. This requirement helps to ensure that persons who have dominion and control over commercial cannabis goods during transport meet that

age requirement. This provision assists in limiting children's access to commercial cannabis goods. Permitting only a licensee's employees or security personnel to be present during transport discourages diversion and theft and provides the Bureau with the ability to take appropriate action against a licensee for improper activity or malfeasance during transport.

The transport of commercial cannabis goods will require thorough and proper record keeping. A distribution licensee will be required to keep and maintain a load specific shipping manifest, business records, and maintain full integration with the track and trace database. The data includes information about the licensee from whom the goods were received, the type and amount of goods received, the party who holds title to the goods, and the unique identifiers or lot number of the goods. These requirements ensure the commercial cannabis goods stay within the regulated market, preventing untested and potentially unsafe commercial cannabis goods from entering into the system or product being diverted into illegal or unregulated markets. These proposed regulations are necessary to ensure commercial cannabis goods stay within the regulated market. By clearly stating the information distribution licensees are required to have on their shipping manifest, the regulations allow for uniformity of records across distribution licensees and increase the speed and effectiveness of Bureau enforcement investigations.

Lastly, in recognition of the MAUCRSA requirement that only distributors are allowed to transport cannabis goods, the Bureau has created a distribution transport only license. This license allows the holder to transport goods between licensees but does not allow them to conduct the quality assurance review or arrange for laboratory testing. This is necessary because many licensees, especially cultivators, are in remote geographic locations. The distributor transport only license provides flexibility to those licensees that are difficult to reach by allowing them to obtain a distributor transport only license and transport their cannabis to manufacturers or distributors without having to pay a distributor to come to them, which could be quite costly depending on where they are located. This also allows licensees that simply want to transport cannabis goods, but do not want to store them, conduct quality assurance review, or arrange for laboratory testing, to participate in the cannabis marketplace. Because of the importance of quality assurance and laboratory testing, the Bureau has limited the distributor transport only licensee to transporting between cultivators, manufacturers, and microbusinesses with the exception that a distributor transport only licensee may transport immature live plants and seeds from a nursery to a retailer. This exemption is necessary because immature live plants and seeds are not required to be tested and therefore do not need to go through the standard distribution process but must still have a way of reaching the retailer for sale to consumers.

## **RETAILERS**

### **STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS**

Retailers provide commercial cannabis goods to customers who are the end users of the product. Prior to the MAUCRSA, there was no state regulatory process for the operation of a commercial cannabis retailer. Under the MAUCRSA, the Bureau is responsible for establishing the rules for the operation of commercial cannabis retailers. Without the

regulations developed by the Bureau, there is no set of rules that would apply to all commercial cannabis retailers across the state. The overall purpose of the proposed regulations is to lay out the minimum requirements for holding a state license to operate a commercial cannabis retail premises and are necessary as retailers engage directly with the consumer and the public. The proposed retailer regulations are designed with three main goals.

First, the regulations are designed to ensure that retailers follow the MAUCRSA supply chain requirements. The regulations are designed to require that retailers procure their commercial cannabis goods from licensed distributors. Additionally, the proposed regulations require that retailers use the track and trace system to monitor activity. The proposed regulations will also require that the retailers ensure that they only provide commercial cannabis goods to individuals who are legally allowed to purchase them. This is achieved by requiring that all potential customers provide the retailer with identification and a physician's recommendation (if required). The proposed regulations also ensure that customers will have access to commercial cannabis goods by setting requirements for delivery.

Second, the regulations are designed to protect public health and safety. The proposed regulations require that retailers only sell commercial cannabis goods that have undergone required testing procedures. The proposed regulations also prohibit a retailer from packaging commercial cannabis goods on-site, which leads to a reduction in the risk of contamination or adulteration after the mandated state testing process. The regulations prohibit the consumption of commercial cannabis goods by delivery employees while they are performing deliveries. The proposed regulations also require that commercial cannabis goods be stored in a manner to prevent spoilage or degradation. The proposed regulations prevent a retailer from reselling any commercial cannabis goods that have been returned by a customer. Additionally, the proposed regulations require that commercial cannabis goods be placed in a resealable child-resistant opaque exit package before leaving the premises or providing the goods to a delivery customer. The exit packaging will make it more difficult for young children to gain access to the commercial cannabis goods. Limits on daily sales to an individual customer reflect the limits under the Health and Safety Code so that a retailer does not allow a person to purchase more than the amount he or she can legally possess.

Third, the proposed regulations are designed to limit the risk of diversion. The proposed regulations have strict security requirements regarding who may access the retail premises or delivery vehicles. The proposed regulations limit the amount and placement of commercial cannabis goods used for display. The proposed regulations require that retailers only be open for sales between the hours of 6:00 a.m. and 10:00 p.m. in order to reduce the increased risk of robbery and other crimes and comply with certain security requirements when not open for business. The proposed regulations impose rules on who can perform deliveries, the time during which deliveries can be made, and how deliveries are to be performed to reduce risk of crime. Under the proposed regulations, retailers are required to closely monitor their inventory of commercial cannabis goods by doing inventory

reconciliation activities and meeting certain recordkeeping requirements. The proposed regulations also allow for retailer to retailer transfer, under the same ownership, and by a licensed distributor.

## **MICROBUSINESSES**

### **STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS**

Microbusinesses enable licensees to engage in multiple commercial cannabis activities under one license: cultivate commercial cannabis on an area less than 10,000 square feet; act as a licensed distributor; manufacture commercial cannabis as a Level 1 manufacturer; and/or sell commercial cannabis as a retailer. Prior to MAUCRSA, there was no state regulatory process for the operation of a vertically integrated microbusiness. Under the MAUCRSA, the Bureau is responsible for establishing rules for the operation of microbusinesses. Without the regulations developed by the Bureau, there is no set of rules that would apply to all vertically-integrated microbusinesses operating statewide. The overall purpose of the proposed regulations is to lay out the minimum requirements for holding a state license to operate a microbusiness. The proposed microbusiness regulations are designed with two main goals: (1) clarifying what documents and information is required to complete an application for a microbusiness license; and (2) ensuring microbusiness follow the MAUCRSA supply chain requirements for all commercial cannabis activities they will be engaging in.

Because MAUCRSA is silent as to the license application requirements for microbusinesses, the proposed regulations would specify the information that must be provided in the application depending on the commercial cannabis activities the licensee intends to engage in. MAUCRSA does not specify how many commercial cannabis activities a microbusiness must conduct to be eligible for licensure; the proposed regulations would clarify that an applicant must engage in at least three of the four activities: cultivation, manufacturing, distribution, and/or retail sale. The proposed regulations would specify the information that must be provided in the application depending on the commercial cannabis activities the licensee intends to engage in such as requiring a cultivation plan and supplemental water source information if the licensee will engage in cultivation. The proposed regulations would specify that if a microbusiness' cultivation is found to be causing significant adverse impacts on the environment in a watershed or other geographic area, the Bureau shall not issue any new microbusiness licenses that include cultivation for that area. For manufacturing activities, the proposed regulations would require a description of inventory control procedures, quality control procedures, security procedures, and waste procedures as part of an application for microbusiness licensure.

Recognizing that each commercial cannabis activity has distinct operational requirements, the proposed regulations would also clarify that microbusiness licensees must comply with all the rules and requirements promulgated for each commercial cannabis activity the licensee intends to engage in. The proposed regulations would specify that the areas of the premises for manufacturing and cultivation shall be separated from the distribution and retail areas by a wall and all doors between the areas shall remain closed when not in use.

The proposed regulations would clarify that if a licensee decides to change the activities they are authorized to engage in they must submit a request for modification to the Bureau and that any suspension or revocation of a microbusiness licensee may affect all activities performed under that license. The proposed regulations would also specify additional record keeping requirements for microbusinesses engaging in cultivation and manufacturing. Although bound to the Bureau's general recordkeeping requirements, manufacturing and cultivating activities have distinct records tailored to the nature of their operations. These requirements will assist in preventing theft, diversion into the illegal or unregulated market of commercial cannabis goods and tracking of movement of commercial cannabis goods. The proposed recordkeeping provisions for microbusinesses assure that all licensees conducting the same commercial cannabis activities maintain similar records for Bureau review and inspection.

## **CANNABIS EVENTS**

### **STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS**

Under MAUCRSA, state temporary event licenses may be issued, authorizing onsite commercial cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association, provided that certain conditions are met, including that all participants are licensed. Prior to MAUCRSA, there was no state regulatory process for conducting temporary cannabis events. Under the MAUCRSA, the Bureau is responsible for establishing rules for the operation of temporary cannabis events at a county fair or district agricultural association. Without the regulations developed by the Bureau, there is no set of rules that would apply to all temporary cannabis events statewide. The overall purpose of the proposed regulations is to lay out the minimum requirements for the operation of a temporary cannabis event, licensed by the Bureau.

First, the proposed regulations would specify the application requirements for individuals or entities interested in holding a temporary cannabis event. Anyone interested in holding a temporary cannabis event must first apply to the Bureau as a temporary cannabis event organizer; this ensures that only licensees that are pre-approved by the Bureau are applying for temporary cannabis event licenses. It also reduces the amount of information the Bureau will need to collect from an applicant for each temporary cannabis event. The proposed regulations would specify that an application for a temporary cannabis event license must be submitted no less than 60 days prior to the date for which the license is sought. This assures that the Bureau has adequate time to review information submitted by the applicant, and collect additional information, as needed. The proposed regulations also provide that a temporary cannabis license shall be valid for no more than 4 consecutive days, providing clarity to applicants regarding the temporal constraints of temporary cannabis event licensure. The proposed regulations would specify what must be provided with the application, including a diagram of the layout of the event with a detailed description of where commercial cannabis sales and consumption will occur. Similarly, applicants must provide the Bureau and a list of all licensees that will be providing onsite sales of commercial cannabis goods at the event at least 72 hours before the event. The proposed regulations would also specify that the cannabis event organizer provide a

designated contact person(s) who shall be onsite at the event and reachable by telephone at all times that the event is occurring. These requirements ensure that the Bureau and its enforcement staff have all information necessary to effectively evaluate whether licensees are operating in a manner consistent with MAUCRSA and its implementing regulations.

Further, the proposed regulations would specify certain operational requirements that must be met by temporary cannabis events to ensure public health and safety for event attendees. Specifically, the proposed regulations require that all temporary cannabis event sales of commercial cannabis only be performed by a licensed retailer or microbusiness authorized to sell commercial cannabis to retail customers and all commercial cannabis goods to be sold at the event must be transported to the event by a licensed distributor. The retail sales must be conducted within their assigned areas, and prohibits mobile sales. The proposed regulations would further clarify that commercial cannabis goods sold at a temporary event must comply with the applicable laws and regulations including testing, packaging, and labeling requirements. The proposed regulations would also provide specific requirements for onsite consumption at a temporary cannabis event including that access to the onsite consumption area be limited to persons 21 years of age or older and that cannabis consumption not be visible from any public place or non-age-restricted area.

## **TESTING LABORATORIES**

### **STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS**

The MAUCRSA mandates that protection of the public be the highest priority for all licensing authorities. In keeping with that, the MAUCRSA requires that the Bureau develop procedures for ensuring that all cannabis goods are tested prior to distributing them to a retailer. The MAUCRSA requires that all cannabis goods be tested by testing laboratories licensed by the Bureau. Through the proposed regulations, the Bureau aims to ensure the cannabis goods sold to consumers are safe for human consumption. The Bureau also aims to ensure consumers receive accurate information regarding the cannabis goods they consume.

First, the MAUCRSA requires the Bureau to develop regulations for testing the chemical profile of cannabis, including THC, THCA, CBD, CBDA, terpenes, CBG, CBN and any other compounds or contaminants as determined by the Bureau. Additionally, the MAUCRSA mandates the Bureau to establish levels for contaminant including residual solvents, foreign material, and microbiological impurities. Contamination may occur during various stages of the cultivation, harvest, extraction, processing, and packaging. Some of the types of contamination that can make cannabis goods unsafe includes residual pesticides, residual solvents and processing chemicals, microbiological impurities, heavy metals, and foreign material. These proposed regulations aim to establish action levels that the Bureau considers are both protective of public health and achievable by the cannabis industry. The proposed exposure limits are necessary to ensure, to the extent feasible, that no consumer will suffer material impairment of health from exposure to contaminants in cannabis goods. As such, these contaminants are discussed in greater detail:

### *Chemicals*

During the cultivation and manufacturing process, injurious chemicals can contaminate cannabis goods. For instance, solvents are used to extract, in concentrated amounts, cannabinoids from dried flower. Some of the chemicals used as solvents may linger after the processing is finished. When present in products intended for human consumption, excessive amounts of these residual solvents and processing chemicals may pose risks to human health.

### *Microbiological impurities*

Some *Escherichia coli* (*E. coli*) strains can cause human disease. One strain produces a toxin called Shiga toxin, which can result in serious illness. Because of the low infectious dose required for disease causation, the Bureau proposes there be zero tolerance for the presence of Shiga toxin-producing *E. coli* in cannabis goods.

In addition, the presence of *Salmonella* in cannabis has been documented and, in 1981, resulted in a multistate outbreak. It has also been associated with gastrointestinal disease in both healthy and in immunocompromised populations. The Bureau proposes testing for all *Salmonella* strains.

There have been a number of cases involving immunocompromised people who have become ill, or died, from inhaling *Aspergillus*. *Aspergillus* is a fungus that can cause serious health problems. Certain *Aspergillus* strains can cause a variety of immune-reaction lung disorders, ranging from asthma, allergic bronchopulmonary aspergillosis, and hypersensitivity pneumonitis to invasive systemic fungal infections. The Bureau proposes testing for this fungus.

### *Mycotoxins*

Mycotoxins are toxic substances produced by certain fungi that can grow on human food and animal feed grain. Human exposure to mycotoxins, through ingestion, inhalation, and dermal contact, has been associated with severe human health impacts that include necrosis, cirrhosis, and carcinomas. The Bureau proposes requiring testing for certain mycotoxins.

### *Foreign material*

Medical cannabis products may be injurious to health if they consist in whole or in part of any filthy, putrid, or decomposed substances or is otherwise contaminated by any added poisonous or added deleterious substance. This may occur if the cannabis goods have been stored, prepared, or packed under unsanitary conditions. The Bureau proposes requiring testing for foreign material.

### *Heavy metals*

Cannabis plants are known to uptake metals from contaminated growth media (for example, soil), which increases the risk of adverse health effects associated with the consumption of cannabis goods. For example, exposure to lead may cause neurological, reproductive, developmental, immune, cardiovascular, and renal health effects. And mercury shows toxicological effects such as neurological, corrosive, hematopoietic, and

renal effects as well as cutaneous disease (acrodynia). The Bureau proposes requiring testing for heavy metals.

Second, the proposed regulations set minimum standards for testing laboratories. The MAUCRSA requires that testing laboratories conduct in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling and using verified methods. There are inherent challenges to regulating an industry that has not been federally regulated and has only been newly regulated in other states. With regard to cannabis testing laboratories, one challenge the Bureau faced when developing these proposed regulations was lack of generally accepted verified methods for the testing of cannabis goods. Therefore, it was imperative the Bureau include regulations regarding verification of testing methods. Additionally, because ISO/IEC, the joint technical committee that establishes the accreditation requirements that the testing laboratories are subject to, is a private organization not under the control of the Bureau, nor subject to public-record disclosure laws, it was necessary for the Bureau to develop its own minimum standards for laboratories. These standards aim to ensure that the laboratories that test cannabis goods before retail sale adhere to laboratory practices that result in accurate information being provided to consumers about the contents of the cannabis goods. These proposed standards would enable the Bureau to ensure that laboratories maintain high operational standards and conduct valid tests. These testing laboratory standards include ones for sampling procedures, test method validation, quality assurance, and laboratory personnel qualifications and are discussed in greater detail:

#### *Sampling*

Proper sampling collection may be far more consequential than laboratory measurement errors. If a sample of cannabis goods is improperly obtained, the measurement data that is gathered through analyzing the sample puts the measurement data it produces into question. Proper sampling is therefore critical to obtaining relevant and valid data.

In these regulations, the Bureau proposes fairly detailed minimum sampling requirements. These requirements include what must go into a testing laboratory's sampling protocol and how samples are to be stored.

#### *Validation of Test Methods*

An analytical procedure is developed to test a defined characteristic of a substance against established acceptance criteria for that characteristic. This is called a "method," or a "test." To ensure the method used results in reliable, valid data, the method must be "validated" before it is used to produce usable results. Method validation is a process by which a method is tested to ensure it is producing valid results.

Because it is only fairly recently that laboratories begun to test cannabis goods for potency and contamination, and because the federal government does not regulate this industry, there are few validated methods for the testing of cannabis goods. Therefore, laboratories will have to validate their own methods for the testing of cannabis goods.

The laboratory's analytical instrumentation and methodology should be selected based on the intended purpose and scope of the analytical method. Parameters that may be evaluated during method development are specificity, linearity, limits of detection (LODs) and limits of quantitation (LOQs), range, accuracy, and precision.

These proposed regulations set out what the Bureau considers to be acceptable ways to validate a "nonstandard" method, which will be used for testing cannabis goods. In developing these proposed method validation regulations, the Bureau looked to guidelines and other resources used in other industries.

#### *Quality Assurance*

Quality assurance is a set of operating principles that enable laboratories to produce defensible data of known accuracy and precision. These operating principles form a laboratory quality assurance program and are documented in a laboratory's quality assurance manual. These regulations propose the minimum components of a quality assurance program and quality assurance manual.

The Bureau's proposed quality assurance program includes requirements for quality control samples. The Bureau proposes to require the use of laboratory quality control samples including method blank samples, laboratory replicate samples, and matrix spike samples. The proposed regulations also set out how to calculate the limit of detection and limit of quantitation. They also specify recordkeeping requirements and require an annual internal audit. Together these proposed regulations will assist in providing accurate testing and guidance for how to ensure accurate testing.

The Bureau is also proposing required proficiency testing. Proficiency testing is an objective assessment of a laboratory's ability to perform analyses. The Bureau proposes requiring testing laboratory licensees participate in a proficiency testing program provided by an organization that operates in conformance with the requirements of ISO/IEC 17043 so that every analyst and every method used by the laboratory is eventually tested. This is an important check on the ability of laboratories to provide accurate data.

#### *Personnel*

The education and experience level of the personnel of a testing laboratory is very important. Many of the required tests in these proposed regulations are complex and must be done by persons with specialized training. Therefore, the Bureau proposes in these regulations to require testing laboratories licensed by the Bureau to have a laboratory supervisor or management staff. It is also proposed that any employee who performs analytical tasks meet some minimum qualifications. This is done to ensure laboratories are run by competent and trained persons, to ensure accurate testing, and to ensure public safety.

## **ENFORCEMENT**

### **STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS**

Under the Act, each licensing authority has the power to create, issue, deny, renew, suspend, revoke, place on probation with terms and conditions, or otherwise discipline a

licensee for any acts or omissions constituting grounds for disciplinary action. The Act does not provide a comprehensive list of grounds for disciplinary action, and does not provide for specific enforcement actions falling short of discipline, or a specific process to challenge an enforcement action that is not appealable to the Cannabis Control Appeals Board, under Business and Professions Code section 26040 et seq. While the Act provides guidance on the larger macro issues, much of the implementation specifics and clarification of terms was left to the Bureau. Under the Act, the Bureau is responsible for establishing the regulatory framework for disciplinary action for certain licensed and unlicensed commercial cannabis activities. Without the regulations developed by the Bureau, there is no set of rules that would apply to Bureau licensees statewide. The overall purpose of the proposed regulations is to lay out strong and fair enforcement provisions, to ensure that there is a balance between allowing for the feasible operation of cannabis businesses, while deterring illegal and criminal activities.

Moreover, the proposed regulations will establish a framework for which the Bureau will initiate or undertake enforcement action, including disciplinary action. Enforcement of the Act is essential to carrying out the duties of the Bureau in ensuring the protection of the public as the highest priority. All enforcement actions, and disciplinary actions, are taken with this statutory mandate in mind. These proposed regulations will provide the requirements and procedures necessary to ensure that the Bureau is engaging in actions that are necessary and fair. It is important to ensure that the Bureau's enforcement actions will not be compromised, while affording licensees their rights to due process. To the extent necessary, these proposed regulations will provide the Bureau's inspection process, and will clarify the Bureau's right to access information and materials pursuant to the Act. The proposed regulations will also provide an overview of the process for issuing citations and monetary fines, as a method of ensuring licensee compliance with the Act and its implementing regulations, short of taking disciplinary action. The proposed regulations will also enable the Bureau to provide notices of compliance, that are intended to advise licensees on abatement of violations that do not rise to the level of citation issuance or disciplinary action. Under the proposed regulations, the Bureau will also have the authority to issue emergency decisions and orders, in circumstances where immediate action is necessary in order to safeguard public health, safety, and welfare. The proposed regulations provide the procedures for temporary, interim relief, before and after issuance of such an emergency decision and order.

The enforcement actions and prohibited acts under these proposed regulations will ensure a safe and efficient market for commercial cannabis activity.

The proposed regulations also provide clarity regarding certain activities that are prohibited on the licensed premises. This will aid licensees, applicants, and the public to mitigate the risk for possible criminal activities. The current lack of a banking system for commercial cannabis has resulted in a historically cash-heavy industry that may be subject to a higher risk of criminal activity than other industries. The proposed regulations provide clarity to mitigate such potential risks, thereby ensuring protection of the licensee and public to the extent possible.

## **OTHER PROVISIONS**

### **STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS**

The Act, under Revenue and Taxation Code section 34019, subsection (b), provides that a sum of ten million dollars (\$10,000,000), will be disbursed annually to public universities in California, beginning with the 2018-2019 fiscal year until the 2028-2029 fiscal year, to research and evaluate the implementation and effect of the Act. While the Act provides the Bureau the authority to select the universities that will be eligible for this disbursement, much of the implementation specifics was left to the Bureau. Specifically, the Act does not provide the process for application and selection, or the specific criteria for selecting universities to receive the enumerated funds. Accordingly, the purpose of the proposed regulations is to implement, interpret, and make specific Revenue and Taxation Code section 34019, subsection (b), and the duty of the Bureau to make selections for funding on research related to cannabis use, so that the public will have access to useful knowledge on a new industry and product that has not widely been researched or evaluated.

The research contemplated under the Revenue and Taxation Code, section 34019, and this division, will focus on the efficacy of the rules and regulations carried out under the Act, as well as the public health and safety of cannabis use, and the economic impacts of cannabis use and licensing. The proposed regulations will detail the selection criteria and process by which the Bureau will select eligible universities for funding. It will provide for the process and requirements for funding, which is necessary to ensure the funds will be properly allocated and efficiently used to satisfy statutory mandates. The proposed regulations will also require selected universities to satisfy performance reporting standards and provide annual reports to further ensure that research is aligned with the statutory provisions, while providing the public up-to-date knowledge on this developing industry.

### **SPECIFIC PURPOSE, NECESSITY, AND RATIONALE FOR EACH ADOPTION**

The Bureau proposes to add sections §§ 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5007.1, 5008, 5009, 5010, 5010.1, 5010.2, 5010.3, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5052.1, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5303.1, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5402, 5403, 5403.1, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5425, 5426, 5427, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507, 5600, 5601, 5602, 5603, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814, 5815, 5900, 5901, 5902, 5903 and 5904 of Division 42 of Title 16 of the California Code of Regulations, as follows.

#### **§ 5000. Definitions**

Subsection (a) defines “Act” as the Medicinal and Adult-use Cannabis Regulation and Safety Act. This is necessary because “Act” is used throughout the regulations.

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licensees in lowering their costs by not requiring security measures in situations where they are not needed.

This section is necessary to ensure that cannabis goods are properly handled throughout the supply chain, so they can safely and securely reach the consumer without diversion, adulteration, or other contamination. A distributor transport only license allows for efficiency in the distribution of cannabis goods. These licensees that specifically only engage in transport only services, will be relieved of the obligations and requirements for testing and quality assurance. To ensure that the limitations are strictly followed, distributor transport only licensees are prohibited from certain activities, such as transporting to a retailer, unless it is specific cannabis goods not subject to testing. These restrictions are necessary to ensure that cannabis goods that have not been tested do not end up in the possession of an ultimate end consumer.

#### **§ 5400. Access to Retailer Premises**

This proposed regulation clarifies who may gain access to the licensed premises of a retailer. The purpose of this proposed regulation is to limit access to the licensed premises of a retailer to authorized individuals and to reduce or eliminate the exposure of minors to cannabis.

Business and Professions Code section 26140, subdivision (a) prohibits A-designated licensees from, selling cannabis goods to persons under 21 years of age, allowing persons under 21 years of age onto the licensed premises, or employing persons under the age of 21 years of age. Under subdivision (c) of section 26140, M- designated licensees may allow individuals who are at least 18 years of age and possess a valid physician's recommendation onto the premises. Under this proposed section, M-designated licensees may also sell cannabis goods to individuals who are at least 18 years of age and possess a valid physician's recommendation.

Consistent with Business and Professions Code section 26140, proposed subsection (a) of this proposed regulation restates the requirement that persons under the age of 21 should not be allowed onto the licensed premises of a retail licensee for clarity and convenience.

Subsection (b) of the proposed regulation restates the requirement that M-designated licensees may allow individuals who are at least 18 years of age who have a valid physician's recommendation for medicinal cannabis for clarity and convenience.

Subsection (c) of the proposed regulation provides an exception to subsection (a) for M-designated licensees. Under subsection (c) of the proposed regulation, a retailer who holds both an M-designated license and an A-designated license may allow individuals who are at least 18 years old and possess a valid physician's recommendation to access the licensed premises and is included for clarity and convenience.

This proposed regulation is necessary because it clarifies who a licensed retailer may allow to access the licensed premises as prescribed by Business and Professions Code section 26140. This clarity is important to limit access of cannabis goods by a minor or

unauthorized individual and is in furtherance of the Bureau's statutory mandate to ensure protection of the public as the highest priority.

**§ 5401. [Reserved]**

**§ 5402. Customer Access to the Retail Area**

This proposed regulation specifies who may access the retail areas of a retailer's licensed premises and provides certain requirements for retail areas accessible by customers. Business and Professions Code section 26070, subdivision (j) requires that a licensed retailer implement security measures that are reasonably designed to prevent unauthorized entrance into areas containing cannabis goods and to prevent theft of cannabis goods from the premises. Subdivision (j)(1) of Section 26070 requires retailers to prohibit individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the retailer.

In furtherance of these statutory requirements, subsection (a) of the proposed regulation clarifies that the retailer must use to confirm the age of a customer before allowing the customer into the retail area. Under this proposed subsection, a retailer would be required to inspect and confirm the customer's identification as specified in proposed section 5402.1. A retailer may only allow a customer into the retail area after properly confirming the customer's identification, and if necessary, the customer's physician's recommendation. The purpose of this proposed subsection is to protect children and minors by assuring that only appropriately aged customers enter the retail area to purchase cannabis goods. This proposed section will also ensure that retailers are properly confirming the age of customers before allowing the customers to enter the retail area.

Subsection (b) of the proposed regulation requires that an employee of the licensee be present in the retail area any time there are customers in the retail area. The purpose of this proposed subsection is to decrease the risk of theft or diversion; unsupervised access to the retail floor area may result in the licensee losing control over the premises, which may lead to an increased risk of theft, diversion, or other unauthorized activity.

Subsection (c) of the proposed regulation requires that all sales of cannabis goods, except for sales through delivery, take place in the retail area. The purpose of this proposed subsection is to reduce the risk of theft or loss. By requiring the sale of cannabis goods to only take place in designated areas, the potential for a licensee losing control over their licensed premises is diminished. The retail area is the only area in which cannabis goods for sale may be displayed. By requiring all sales to be conducted in the controlled environment of the retail area, the risk of loss and illegal diversion is reduced.

**§ 5403. Hours of Operation**

This proposed regulation specifies the hours during which a retailer may sell and deliver cannabis goods. The proposed regulation prohibits a licensed retailer from selling or delivering cannabis goods between the hours of 10:00 p.m. to 6:00 a.m. The Bureau has determined that during these hours, there is a greater risk of crime or diversion because it is

dark and there are fewer people in public, factors that increase the likelihood of criminal activity. By requiring that retailers not be open to the public during these hours, the risk of criminal activity is reduced. During these hours, the retailer must be closed to the public and will be required to follow certain security requirements found in proposed section 5403.1. This requirement would minimize the potential and opportunity for an individual with the intent to rob or steal cannabis goods, to simply walk into the retailer and find product on display in the retail area, cash in the registers, and employees on the premises, at times when those on the premises may be more vulnerable and exposed. Therefore, the risk of robbery or other crime is lowered. This proposed section is also beneficial to ensuring the protection of the public as the highest priority.

#### **§ 5403.1. Requirements While Not Open for Business**

This proposed regulation specifies security requirements that a retailer must comply with during the hours the retail premises is not open for retail sales. The purpose of this proposed regulation is to reduce the risk of theft or other loss of cannabis goods while the licensed retail premises is not open for business and potentially unoccupied by the licensee's employees.

Subsection (a) of the proposed regulation specifies that while the retail premises is not open for to the public for retail sales, the retailer must securely lock the premises with commercial grade door locks. The purpose of this proposed subsection is to reduce the risk of loss due to theft as the chance of theft is minimized if the premises is securely locked.

Subsection (b) of the proposed regulation requires that the retail licensee utilize an active alarm system while the licensed premises is not open to the public for retail sales and the licensee or its employees are not on the licensed premises. The purpose of this proposed subsection is to reduce the risk of loss due to theft. The use of an alarm system will deter potential thieves and will notify the licensee of potential break-ins at the premises.

Subsection (c) of the proposed regulation requires the retailer to only allow employees and other authorized individuals to access the licensed premises when the premises is not open to the public for retail sales. It is reasonable to expect that employees and other individuals will be required to access the licensed premises even after the retailer is closed for retail sales. The purpose of this proposed subsection is to ensure that the licensee and its employees are in control of the licensed premises, thereby reducing the risk of loss due to theft. Security is very important in operating commercial cannabis business. Allowing a licensee to allow other unauthorized individuals on the licensed premises may result in the licensee losing control over who enters and accesses the premises, which may result in an increased risk of theft, diversion, or other unauthorized activity. Additionally, an unlicensed person is not subject to the rules and regulations for operating a licensed retail premises. By limiting access to only those authorized individuals who have specific business on the premises, the risk of loss due to theft is reduced. This proposed subsection also provides additional clarification as to who may be considered an authorized individual under this section, which includes persons there for legitimate business activities.

## **§ 5404. Retail Customers**

The purpose of this proposed section is to clarify which individuals a retail licensee may sell adult-use cannabis goods to and which individuals a retail licensee may sell medicinal cannabis goods to. The proposed subsection also reiterates the requirement that a retailer must confirm the age of a customer. Business and Professions Code section 26140, subdivision (a)(4) prohibits an A-designated licensee from selling cannabis goods to any person who is not able to produce documentation indicating that they are 21 years old or older. Subdivision (c)(3) allows an M-designated licensee to sell medicinal cannabis goods to a medicinal cannabis patient or primary caregiver who can produce documentation indicating that they are at least 18 years old and possess a valid physician's recommendation for medicinal cannabis.

Subsection (a) of this proposed regulation restates the requirement found in Business and Professions Code section 26140, subdivision (a)(4) pertaining to the sale of adult-use cannabis goods. This proposed subsection also clarifies that a retailer is required to confirm the age and identity of each customer according to the requirements of proposed subsection (c) of this section. The restatement of the statutory requirement provides additional clarity on how retailers are expected to verify the age of an adult-use customer prior to selling the customer adult-use cannabis goods, and emphasizes the important of restricting access of cannabis goods to only those individuals of age.

Subsection (b) of the proposed regulation restates the requirement found in Business and Professions Code section 26140, subdivision (c)(3) pertaining to the sale of medicinal cannabis goods. This proposed subsection also clarifies that a retailer is required to confirm the age and identity of a medicinal cannabis customer, as well as the customer's physician's recommendation as required in proposed subsection (c) of this section. The restatement of the statutory requirement provides additional clarity on how retailers are expected to verify the age and physician's recommendation of a medicinal customer prior to selling the customer cannabis goods.

Proposed subsection (c) clarifies what forms of documents of identification a customer may provide to a retailer to confirm the age of the customer. Proposed subsection (c)(1) clarifies that a document issued by a government entity that contains a minimum amount of identifying information may be used by a customer to confirm their age and identity to a retailer. The information required is not easy to change and is consistently present on many government issued identifications. The Bureau has determined that a document of identification issued by a government entity is reasonably likely to allow a retailer to effectively confirm the age and identity of the potential customer. Additionally, this type of document is reasonably difficult to falsify and the methods for verifying the authenticity of the document can easily be employed by the retailer.

Proposed subsection (c)(2) clarifies that a valid identification card issued to a member of the armed forces, containing the name, date of birth and a photo, may be used by a customer to confirm their age and identity to a retailer. The Bureau has determined that a military identification card is reasonably likely to allow a retailer to effectively confirm the

age and identity of the potential customer. Additionally, this type of document is reasonably difficult to falsify and the methods for verifying the authenticity of the document can easily be employed by the retailer.

Proposed subsection (c)(3) clarifies that valid passport issued by the United States or a foreign government may be used by a customer to confirm their age and identity to a retailer. The Bureau has determined that a valid passport is reasonably likely to allow a retailer to effectively confirm the age and identity of the potential customer. Additionally, this type of document is reasonably difficult to falsify and the methods for verifying the authenticity of the document can easily be employed by the retailer.

#### **§ 5405. Cannabis Goods Display**

This proposed section clarifies the requirements for the display of cannabis goods. The purpose of this section is to reduce the risk of loss due to theft and to reduce or eliminate the exposure of minors to cannabis. The provisions in this proposed section also aim to protect the health and wellness of cannabis customers by ensuring that cannabis goods purchased from the retail premises are free from contamination.

Proposed subsection (a) of this proposed regulation requires that any cannabis goods displayed by the retailer for inspection by customers shall only be displayed in the retail area. The purpose of this subsection is to reduce the risk of loss due to theft by limiting the use of displays. the retail area is required to be monitored by video surveillance. Additionally, employees of the retailer are required to be physically present in the retail area while customers are there. By limiting the display of cannabis goods to the controlled environment of the retail area, a retailer will be able to reduce the risk of theft as the cannabis goods will constantly be monitored and controlled by employees and monitored by video surveillance.

Proposed subsection (b) of the proposed regulation allows a retailer to remove cannabis goods from the product packaging and place it in a separate container for display purposes. This will allow customers to inspect the cannabis goods either visually, or by touch or smell. Proposed subsection (c) also requires that any cannabis goods removed from the packaging and placed in display containers not be readily accessible to customers. The proposed subsection requires that these display containers be provided to customers for inspection by retailer employees. The employees are then required to remain with the customer while they inspect the containers of cannabis goods. The purpose of this proposed requirement is to reduce the risk of loss due to theft. By requiring retailer employees to assist customers with the display containers, the risk of customers potentially stealing the contents of the containers is greatly reduced, and provides accountability for the good. Additionally, it is beneficial in educating the customers, and helping them understand the cannabis goods they are interested in purchasing, should they have any questions or concerns regarding the product.

Proposed subsection (c) of the proposed regulation protects the health and safety of customers by preventing retailers from selling any products that are removed from their

packaging and used for display. This proposed subsection requires that any product removed from its packaging for display purposes is destroyed once it is no longer being used as display. This ensures that all product sold to customers is still sealed in packaging and free from potential adulteration. This requirement also ensures that any cannabis goods used for display will not be sold by a retailer to customers.

#### **§ 5406. Cannabis Goods for Sale**

The purpose of this proposed regulation is to protect the health and wellness of cannabis customers by requiring the retailer to ensure that any cannabis goods sold to customers have been properly tested as required by MAUCRSA and that the cannabis goods are safe for consumption.

Proposed subsection (a) requires retailers to ensure that any cannabis goods sold by the retailer have come from a licensed distributor or licensed microbusiness. The Act requires that all cannabis goods sold by a retailer first move through a licensed distributor for quality assurance and laboratory testing. This subsection places the responsibility on the retailer to ensure that any cannabis goods they sell complies with the requirements of the Act. This would also prohibit the retailer from selling cannabis goods that were not obtained through proper channels. The purpose of this subsection is to ensure that all cannabis goods sold by retailers have undergone all of the safety checks and testing required by the Act, thereby assuring that all cannabis goods intended for sale are safe for consumption.

Proposed subsection (b) requires that a retailer verify that any cannabis good sold by the retailer has not exceeded the expiration or sell-by date on the product packaging, if one is provided. The purpose of this subsection is to protect the health and wellbeing of cannabis customers by ensuring that retailers do not provide customers with cannabis goods that are potentially harmful.

Proposed subsection (c) of the proposed section requires that a retailer verify that all manufactured cannabis goods sold by the retailer complies with the specific requirements found in the Act and the regulations developed by the California Department of Public Health's Manufactured Cannabis Safety Branch. There are a number of requirements for manufactured cannabis products found in the Act and the regulations. Many of the requirements are designed to ensure that the manufactured cannabis products are safe for consumption. Although manufacturers are already responsible for ensuring that the cannabis products they manufacture comply with all of the legal requirements, this proposed regulation would also place the responsibility on retailers. As the final licensee to handle the manufactured cannabis products before the cannabis goods are sold to a customer, it is important that the retailer ensure that the manufactured cannabis products comply with all of the legal requirements before making the products available to customers for consumption.

Subsection (d) of the proposed section requires the retailer to verify that all cannabis goods sold by the retailer have undergone the laboratory testing required by the Act. Although

distributors and testing laboratories are already responsible for ensuring that cannabis goods transported to a retailer have been properly tested, this proposed regulation would also place the responsibility on retailers. As the final licensee to handle the cannabis goods before the cannabis goods are sold to a customer who will consume the cannabis goods, it is important that the retailer ensure that the cannabis goods have been properly tested and are thus safe for customers to consume.

Subsection (e) of the proposed section requires the retailer to verify that any cannabis goods sold by the retailer are properly packaged and labeled as required by the Act and the regulations released by all three of the licensing authorities. The packaging of cannabis is important because the Act requires specific packaging requirements with the intention of preventing young children from accessing the cannabis goods. Similarly, the labeling of cannabis goods is important because customers obtain information about products from their labeling. There are specific requirements within the Act and the regulations from the licensing authorities that require specific information to be included on the product's label. Although distributors, cultivators, and manufacturers are already responsible for ensuring that cannabis goods transported to a retailer are properly packaged and labeled, this proposed regulation would also place the responsibility of final review of packaging and labeling on retailers. As the final licensee to handle the cannabis goods before the cannabis goods are sold to a customer who will consume the cannabis goods, it is important that the retailer ensure that the cannabis goods have been properly packaged and labeled so that young children do not access the cannabis goods and the customers purchasing the cannabis goods have access to the information that is required to be placed on the product labels.

Subsection (f) of the proposed section requires the retailer to verify that all cannabis goods comply with all other requirements found within the Act and the applicable regulations. This subsection makes the retailer responsible for verifying that any cannabis goods sold by the retailer comply with all other legal requirements not specifically stated in this section. As the final licensee to handle the cannabis goods before the cannabis goods are sold to a customer who will consume the cannabis goods, it is important that the retailer ensure that the cannabis goods comply with all of the legal requirements, which are geared towards ensuring the public's health and safety, before making the cannabis goods available to customers. Every licensee in the supply chain has a responsibility to ensure the safety of the product they are moving forward, as they receive the gains and benefits from selling the product down the supply chain. As the licensee with control over the cannabis goods before it is sold to the customer, the retailer is the last licensee with the opportunity to prevent unauthorized access to cannabis goods, or access to harmful cannabis goods.

#### **§ 5407 Sale of Non-Cannabis Goods on Premises**

This proposed section clarifies that a retailer may only sell specific products, limited to cannabis goods, cannabis accessories, and any licensees' branded merchandise or promotional materials. This is to ensure there is no cross-contamination from non-cannabis related goods, and to preserve the integrity of the goods sold. The privileges of licensure

only allow for commercial cannabis activities, it does not include other commercial enterprises, which this proposed section is necessary to clarify and make specific. The Bureau has determined that branded merchandise and promotional materials are closely related to commercial cannabis activity and therefore, can be sold. This provision also provides consistency between what distributors can transport and what retailers can sell.

#### **§ 5408. Sale of Live Plants and Seeds**

This proposed section provides the requirements for the sale of live cannabis plants and seeds by retailers. The proposed section also protects the health and wellness of customers by prohibiting retailers from selling products that may be harmful.

Subsection (a) of the proposed regulation clarifies that a retailer may engage in the sale of live immature cannabis plants and cannabis seeds so long as the requirements in the proposed section are met.

Subsection (a)(1) of the proposed section requires that any cannabis plants sold by a retailer are not flowering. The purpose of this subsection is to protect the health and wellness of customers who purchase cannabis plants from a retailer. A cannabis plant that is flowering contains cannabis flowers that the purchaser of the plant may be able to consume. Any cannabis found on a live cannabis plant is unlikely to have been tested and may not be safe for consumption by a customer. Therefore, retailers may not sell live plants that already contain cannabis flowers.

Subsection (a)(2) of the proposed section requires that any cannabis plants or seeds sold by a retailer must have originated from a licensed nursery or a microbusiness authorized to engage in cultivation. The Act requires that all cannabis goods sold by a retailer be obtained from other licensees. Retailers are prohibited from selling cannabis goods that have not gone through the proper supply chain. The purpose of this proposed subsection is to ensure that retailers only sell cannabis plants and cannabis seeds that were obtained through the proper supply chain as required by the Act.

Subsection (a)(3) of the proposed section requires that all cannabis plants and cannabis seeds sold by a retailer must be affixed with a label indicating that the plant or seeds have not been tested as required by the Act. Business and Professions Code section 26110, subdivision (a) exempts immature cannabis plants and cannabis seeds from the testing requirements of the Act. The purpose of this proposed subsection is to eliminate any confusion that may arise in the purchase of a cannabis plants or cannabis seeds from a retailer. This proposed subsection ensures that customers who purchase cannabis plants or cannabis are fully aware that the products have not undergone the same laboratory testing procedures that are required for other cannabis goods for sale.

Subsection (b) of the proposed section prohibits retailers from selling other types of live plants outside of cannabis plants. The purpose of this section is to eliminate any confusion that may result if retailers carried other types of plants in addition to cannabis plants. Customers, Bureau staff, and law enforcement may be confused as to which plants are cannabis plants and what plants are not if a retailer sold a variety of different kinds of

plants. In order to reduce the risk of this confusion, retailers will be limited to only selling cannabis plants under this proposed subsection.

Subsection (c) of the proposed section prohibits a retailer from applying or using pesticides on a cannabis plant for sale. The proposed subsection also prohibits a retailer from causing pesticides to be applied or used on cannabis plants for sale. The purpose of this proposed subsection is to protect the health and well-being of retailer employees and customers who purchase cannabis plants from retailers. Since the Act does not require cannabis plants for sale to be tested, if pesticides were applied to cannabis plants for sale, there would be no reliable method for identifying whether the cannabis produced from the plant would be unsafe to consume due to the pesticide use. Therefore, in order to ensure that cannabis sold by retailers do not contain harmful levels of pesticides, the use of pesticides is completely prohibited on these plants.

#### **§ 5409. Daily Limits**

This proposed section provides the maximum amount of cannabis goods that a retailer may sell to an individual customer. The amounts found in this section mirror the legal possession limits for adult-use cannabis users found in Health and Safety Code section 11362.1 and the legal possession limits for medicinal cannabis patients found in Health and Safety Code section 11362.77. The purpose of this proposed section is to prevent retailers from selling an amount of cannabis goods to a customer which would result in the customer being in violation of the legal possession limits for cannabis. Additionally, placing a limit on the amount an individual can purchase reduces the risk of the customer becoming a target of criminal activity as they leave the retail premises with a large amount of cannabis goods. Also, limiting the amount that can be purchased in a single day reduces the risk of a customer illegally reselling cannabis goods purchased from a retailer.

The proposed regulation prohibits a retailer from selling a customer an amount of cannabis goods in excess of the amounts stated in the proposed section to a single customer in a single day. The Bureau has determined that requiring retailers to track the amount of cannabis sold to a single customer in a single day is the most effective method of balancing the Bureau's interest in reducing the risks stated above, while limiting the amount of resources that a retailer would have to invest in developing a system for tracking the amounts purchased by customers. The proposed subsection does not require retailers to track the total amount of cannabis goods possessed by a customer. A retailer is only required to track the amount of cannabis goods sold to the customer by that retailer.

Subsection (a) of this proposed section provides the amount of adult-use cannabis goods that a retailer may sell to a single customer in a single day. Under the proposed subsection, a retailer may sell up to 28.5 grams of non-concentrated cannabis, eight grams of concentrated cannabis as defined in the Act, and six immature cannabis plants. The limits found in this proposed section are identical to the possession limits for adult-use cannabis found in Health and Safety Code section 11362.1. The purpose of this subsection is to clarify the specific amount of adult-use cannabis goods in each category that a retailer may sell to a single customer in a single day.

Subsection (b) of this proposed section provides the amount of medicinal cannabis goods that a retailer may sell to a single patient or primary caregiver in a single day. Under the proposed subsection, a retailer may sell up to eight ounces of medicinal cannabis in the form of dried mature flower or the plant conversion or 12 immature cannabis plants. The limits found in this proposed section are identical to the possession limits for adult-use cannabis found in Health and Safety Code section 11362.77. The purpose of this subsection is to clarify the specific amount of medicinal cannabis goods that a retailer may sell to a single customer in a single day.

Subsection (c) of the proposed section provides an exception to subsection (b). Under section 11362.77, subsection (b) of the Health and Safety Code, a medicinal cannabis patient or primary caregiver may legally possess an amount of medicinal cannabis in excess of the limits stated in statute if the physician's recommendation indicates that the statutory possession limits does not meet the patient's medicinal needs. In this case, a patient may legally possess an amount of cannabis that is consistent with the patient's needs. This proposed subsection clarifies that a retailer may sell a medicinal cannabis patient an amount of medicinal cannabis goods that meets the patient's needs so long as the patient's physician's recommendation indicates this. The purpose of this proposed subsection is to allow retailers to sell medicinal cannabis goods to patients in amounts that are consistent with the requirements of Health and Safety Code section 11362.77.

Proposed subsection (d) clarifies that the medicinal and adult-use limits contained in this section cannot be combined to allow a customer to purchase an amount of cannabis goods that exceeds either of the limits set in this section. This proposed subsection is necessary to eliminate any confusion regarding the purchase limits in this section and to address the issue of whether a medicinal patient may purchase the maximum amount allotted for medicinal cannabis goods in addition to the maximum amount allotted for adult-use cannabis goods. The proposed subsection clarifies that a medicinal patient may not.

#### **§ 5410. Customer Return of Cannabis Goods**

This proposed section provides an overview on how a retailer must handle customer returns of cannabis goods. The proposed section also states what a retailer must do with cannabis goods that are returned by a customer. The purpose of this section is to protect the health and safety of customers by reducing the risk of customers being sold adulterated cannabis goods. All cannabis goods sold by a licensed retailer are required to be tested by a licensed testing laboratory prior to sale. If the cannabis goods are then returned to the retailer, there is no reasonable method for effectively ensuring that the cannabis goods were not contaminated or adulterated in any way, after being sold, and prior to return.

Proposed subsection (a) of the proposed section provides a definition for the term "customer return" as the term is used in this proposed subsection. This is important in order to differentiate the types of transactions covered in this proposed regulation from other types of returns such as returns between licensees. For clarity, this section is limited to discussing the return of cannabis goods from customers to retailers.

Proposed subsection (b) of the proposed section clarifies that a retailer may accept returns of cannabis goods from customers. This section does not require dispensaries to accept returns, but gives them the ability to accept them if they wish.

Proposed subsection (c) prohibits a retailer from reselling cannabis goods that have been returned by a customer. Since there is no way for a retailer to be certain that the returned cannabis goods are not defective or have not been adulterated in any way, the retailer cannot resell the returned cannabis goods to another customer. The purpose of this proposed subsection is to protect the health and wellness of customers by reducing the risk of customers obtaining cannabis goods that may have been adulterated.

Proposed subsection (d) requires that any cannabis goods abandoned on the retailer premises be treated as a return and not be allowed to be resold. Since there is no way for a retailer to be certain that the abandoned cannabis goods are not defective or have not been adulterated in any way, the retailer cannot sell the abandoned cannabis goods to customer. The purpose of this proposed subsection is to protect the health and wellness of customers by reducing the risk of customers obtaining cannabis goods that may have been adulterated.

Proposed subsection (e) requires that a retailer destroy all returned cannabis goods in accordance with proposed section 5054 and 5055 of this division. This requirement further ensures that cannabis goods that have been returned will not be resold to other customers, or diverted. The purpose of this proposed subsection is to protect the health and wellness of customers by reducing the risk of customers obtaining cannabis goods that may have been adulterated.

#### **§ 5411. Free Cannabis Goods**

This proposed regulation provides the requirements a retailer must adhere to in order to provide free cannabis goods or free cannabis accessories. The purpose of this proposed regulation is to ensure that licenses comply with statutory requirements, while protecting the health and wellbeing of the public.

Business and Professions Code section 26153 prohibits a licensee from giving away cannabis goods or cannabis accessories as part of a business promotion or other commercial activity. Subsection (a) of the proposed regulation clarifies that a retailer generally may not provide free cannabis good to any person. The proposed subsection (a) also clarifies that a retailer would not be able to allow another person that is not employed by the retailer to provide free cannabis goods to any person on the licensed premises. Retailers providing free samples of cannabis goods to customers was a practice engaged in by many retailers prior to the enactment of the Act. It is necessary to clarify that under the act, the practice of providing free samples to customers is no longer permitted.

Proposed subsection (b) of the proposed regulation provides an exception to proposed subsection (a). Proposed subsection (b) allows a retailer to provide medicinal cannabis goods to medicinal cannabis patients if certain requirements are met. The ability to provide free medicinal cannabis goods to certain patients is limited to M-retailers, M-non-storefront retailers, and M-microbusiness licensees who are authorized for medicinal retail sales. The

reason only these licenses may provide free cannabis goods is because the cannabis goods held by retailers are required to undergo assurance and laboratory testing. By limiting the provision of free cannabis goods to these licensees, the Bureau can ensure that all cannabis goods provided to patients under this section are safe for consumption. Additionally, providing free goods to patients does not constitute free goods as part of a business promotion, which is prohibited.

Proposed subsection (b)(1) requires retailers to only provide free cannabis goods to medicinal cannabis patients who possess an identification card. This requirement is consistent with the requirement to be exempted from sales tax as a medicinal cannabis patient. The purpose of this proposed subsection is to provide access to medicinal cannabis for those that may have difficulty in obtaining it. The Bureau has received many public comments on compassionate care use of medicinal cannabis, and the dangers and risks of restricting access to medicinal cannabis.

Subsection (b)(2) of the proposed section requires that any cannabis goods provided to a medicinal cannabis patient or primary caregiver under this section comply with all of the required laboratory testing. The purpose of this proposed subsection is to protect the health and wellbeing of medicinal cannabis consumers by prohibiting retailers from providing cannabis goods that have not been properly tested.

Subsection (b)(3) of the proposed section requires that all cannabis goods provided to a medicinal cannabis patient or primary caregiver for free under this section be properly entered into the State track and trace program as belonging to the retailer's inventory. The purpose of this proposed subsection is to allow for the accurate tracking of the movement of cannabis goods through the track and trace system as required by the Act.

Subsection (b)(4) of the proposed subsection requires that any cannabis provided to a medicinal cannabis patient or primary caregiver under this section comply with packaging requirements for leaving a licensed premises. As noted above, retailers are the final licensee to handle the cannabis goods before the cannabis goods are provided to a medicinal customer who will consume the cannabis goods. Thus, it is important that the retailer ensure that the cannabis goods have been placed in a proper package so young children do not access the cannabis goods and the package is opaque as required by statute.

Subsection (b)(5) of this proposed section requires a retailer to apply any amount provided to a medicinal cannabis patient or primary caregiver under this section to the total amount of cannabis goods that a medicinal cannabis patient or primary caregiver may purchase under proposed section 5409. The purpose of this proposed subsection is to ensure consistency between the requirements for cannabis purchased from a retailer and cannabis received by a medicinal cannabis patient or primary caregiver from a retailer under this proposed section. The reasons for limiting the amount of cannabis goods a single medicinal cannabis patient or primary caregiver may purchase would also apply to amounts of cannabis goods provided to a medicinal cannabis patient or primary caregiver under this section.

Subsection (b)(6) of the proposed subsection requires a retailer to properly record the transaction of providing free cannabis goods to a medicinal cannabis patient or primary caregiver in the state track and trace system. The purpose of this proposed subsection is to allow for the accurate tracking of the movement of cannabis goods through the track and trace system as required by the Act.

Subsection (c) of the proposed regulation clarifies that, in addition to providing free medicinal cannabis goods directly to medicinal cannabis patients and primary caregivers, a retailer may donate cannabis goods or the use of equipment to a compassionate use, equality, or similar program administered by a local jurisdiction. The subsection also requires donated cannabis goods to meet testing requirements and recorded in track and trace. The purpose of this subsection is to clarify a licensed retailer's ability to engage in philanthropic activities for locally-recognized compassionate use, equality, or other similar programs, while ensuring safe cannabis is donated and the goods are tracked properly.

#### **§ 5412. Prohibition on Packaging and Labeling by a Retailer**

This proposed section prohibits a retailer from packaging and labeling cannabis goods.

Under the Act, all cannabis goods must be tested by a licensed testing laboratory and must receive a certificate of analysis from a licensed testing laboratory before being transported to a retailer for sale to customers. To ensure that the test results are accurate, the packaging of the cannabis goods must not be opened between the time the testing occurs and the time the cannabis goods are sold to the final user. Packaging or repackaging at the retail facility may result in contamination or adulteration of the cannabis goods, which may render the test results inaccurate. In order to ensure that the laboratory testing results accurately apply to the product the customer is purchasing from a retailer, a retailer may not open the packaging or repackage cannabis goods prior to selling the cannabis goods to a customer. The purpose of this proposed section is to protect the public by ensuring accurate test results and safe products.

Subsection (a) of the proposed regulation clarifies that a retailer may not accept, possess, or sell cannabis goods that are not packaged as they will be sold at final sale. This proposed subsection will ensure that retailers do not receive any items that are not already packaged. Thus, reducing the risk that the retailer will have to package the cannabis goods themselves or sell cannabis goods that are not properly packaged and labeled.

Subsection (b) of the proposed regulation specifies that a retailer may not package or label cannabis goods. The purpose of this proposed subsection is to ensure that there is no confusion as to whether or not a retailer may engage in the packaging and labeling of cannabis goods.

Subsection (c) of the proposed regulation clarifies that a retail licensee who also holds a distribution, manufacturing, or cultivation license, may engage in packaging and labeling under the distribution, manufacturing, or cultivation license at the premises associated with the license. The purpose of this proposed subsection is to clarify any confusion regarding

whether or not a retail licensee who also holds other types of commercial cannabis licenses is still prohibited from packaging cannabis goods.

#### **§ 5413. Exit Packaging**

Business and Professions Code Section 26070.1 provides that all cannabis goods purchased by a customer shall not leave a licensed premises unless the cannabis goods are placed in a resealable child-resistant opaque package. This proposed regulation is a restatement of statutory requirements. The reason for the restatement is for the purpose of clarity.

#### **§ 5414. Non-Storefront Retailer**

This proposed regulation provides the requirements for the retail non-storefront license. The license is not included in the Act. The license is essentially a limited version of the retail license. A licensee who holds this license may engage in the retail sale of cannabis, but only through delivery. This provision reconsidered feedback received by the Bureau and allows for a lower cost option than a storefront retailer to participate in the regulated market. The purpose of this proposed regulation is to provide clarity on the requirements for obtaining and holding such a license.

Proposed subsection (a) of the proposed section provides a basic description of the license. This proposed section indicates that a licensee may engage in retail sales exclusively through delivery. The purpose of this proposed subsection is to provide a basic idea of the general activities a licensee may conduct.

Proposed subsection (b) of the proposed regulation provides the requirements for applying for a license. This proposed subsection requires that an applicant for a non-storefront retailer license submit all the information required for a retailer application. Since the non-storefront retailer license is very similar to the retailer license, the Bureau has determined that the application for a license requires the same information that would be required in non-storefront retailer license application.

Proposed subsection (c) of this proposed regulation provides the requirements for operating under a license. This proposed subsection requires licensees to comply with all requirements for licensees, with the exception of any provisions relating to public access to the licensed premises, licensing fees, and certain premises requirements. Since the non-storefront retailer license is similar to the retailer license, the Bureau has determined that it is appropriate to require licensees to comply with most of the requirements for a non-storefront retailer license except those provided in this proposed subsection. The Bureau has determined that the identified exceptions are necessary because they address particular issues that are related to the nature of licensing activities and operations.

Proposed subsection (d) of the proposed regulation specifies that the licensed premises of a non-storefront retailer licensee shall be closed to the public. Since a licensee is not authorized to engage in onsite sales of cannabis goods, there is no reason for member of the public to access the licensed premises. Therefore, to reduce the risk of theft or other loss, a licensee would be required by this proposed subsection to prohibit the public from

accessing the licensed premises. This proposed section is beneficial in allowing flexibility in license types, and allows for licensed commercial cannabis activity that helps to bring the illegal market into the regulated industry.

#### **§ 5415. Delivery Employees**

This proposed regulation provides the requirements for retailer delivery employees. Business and Professions Code section 26070, subdivision (c) requires that the driver of a vehicle transporting or transferring cannabis goods be directly employed by a licensee authorized to transport or transfer cannabis goods. The Act defines delivery as the commercial transfer of cannabis or cannabis products to a customer. Therefore, under the statute, a delivery employee of a retailer must be directly employed by that retailer. Subsection (a) of the proposed section restates the requirement regarding direct employment. The reason for the restatement is for clarity. Rather than require a licensee to refer to both the regulations and the statute for delivery employee requirements, a licensee may find the delivery employee requirements in the regulations.

Under current California law, an individual must be at least 21 years old to legally possess cannabis without a valid physician's recommendation. The Act mandates the Bureau to craft regulations that ensure a safe and secure operation of the commercial cannabis market. The Act also permits delivery by retailers; however, it does not clarify safety and security measures to be implemented. Under current California law, individuals under the age of 21 years are permitted to work and potentially deliver medicinal cannabis goods. Proposed subsection (b) requires that all delivery employees be at least 21 years old. This is a restatement of the requirement found in proposed section 5031. The purpose for restating this requirement here is for clarity. The requirements for delivery employees can be found in this chapter rather than requiring a licensee to refer to multiple chapters within the division to find the requirements for delivery employees. The purpose of this requirement is to reduce the risk of exposure of minors to cannabis.

Proposed subsection (c) requires in person deliveries. The reasoning for this requirement is so that the delivery employee can confirm the identity of the customer requesting the delivery before providing cannabis goods to the customer. This also prevents a delivery employee from leaving a delivery unattended. Additionally, the use of drones or other automated delivery vehicles would be prohibited under this subsection; such delivery methods may result in an increased risk of loss due to theft and other crimes as they may be a target for theft.

Proposed subsection (d) clarifies when a delivery begins and ends. This proposed subsection specifies that the process of delivery begins when the delivery employee leaves the licensed premises with the cannabis products to be delivered, and ends when the delivery employee returns to the licensed premises after completing the deliveries. This is important to specify when a delivery begins and ends so that delivery employees will be informed as to when they are required to comply with all of the requirements for actively performing a delivery. This proposed subsection also assures that deliveries are made in an efficient manner, with limited stops by delivery employees. If delivery drivers were to

engage in additional activities or stops while carrying large amounts of cash or product, their vehicles may render them a target for theft or other criminal activity. This proposed subsection would limit the potential for any loss or diversion if a delivery driver leaves their vehicle unattended.

Proposed subsection (e) requires that the delivery employee always carry a copy of the retailer's license, the employee's identification card, and an employee badge while making deliveries. The requirement to maintain these documents while making deliveries is required by Business and Professions Code section 19340. The requirement is restated in this proposed regulation for clarity purposes. This subsection also assures that if stopped by law enforcement or Bureau staff for inspection, drivers and the licensee's status can be properly identified.

Proposed subsection (f) requires delivery employees to confirm the age and identity of a delivery customer prior to providing the cannabis goods to the customer as required by proposed Section 5402.1 of this division. It is important for a delivery employee to confirm the age and identity of a delivery customer to ensure that the delivery customer is legally authorized to purchase and possess cannabis goods. The purpose of this proposed subsection is to ensure that cannabis goods are not delivered to minors who cannot legally purchase and possess cannabis goods. The subsection also requires the delivery employee to place the cannabis goods into a resealable, child-resistant opaque exit package. This is necessary to comply with the requirement that cannabis goods be placed in an exit package prior to being given to a customer.

Proposed subsection (g) requires that the retailer maintain a list of their delivery employees. It is important for the retailer to maintain a list of delivery employees so that the retailer, law enforcement, and the Bureau can easily identify those individuals who are conducting deliveries for or on behalf of the licensed retailer. A retailer licensee must be able to identify all of the individuals who are actively performing deliveries on behalf of the licensed retail location. Requiring identifying information of delivery drivers be kept and maintained provides the Bureau with the necessary information to properly and effectively audit the retailer. Ensuring only employees of the licensee are permitted to deliver cannabis goods and that the delivery be done in person provides the Bureau the ability to take appropriate action against a licensee's license for improper activity or malfeasance during delivery. These proposed requirements are also necessary to ensure that the delivery process is rendered as safe as possible, for the benefit of the employee, the licensee, and the public.

#### **§ 5416. Delivery to Physical Address**

Delivery is permitted under the Act, but the law does not provide any specific guidance or limitation on how to avoid conflicts with federal law or regulation. Clarity is needed to identify permissible delivery locations and methods. The Bureau's selection of acceptable delivery locations and roadways provide licensees clarity on where they can deliver. For instance, the subsection limits delivery routes to be entirely encompassed within the state; this mitigates the intersection of the State's regulation and potential conflict with federal

law. If the Bureau did not specify or identify locations where delivery could occur, licensees may interpret the silence to allow delivery at any location, including parks, near schools, and other unauthorized locations. Also, without a clear and specific recorded delivery location, Bureau enforcement and compliance investigations would be significantly impeded.

Proposed subsection (a) requires that all deliveries be made to a physical address in California. Requiring the delivery of cannabis goods to a specific physical address in California ensures that the Bureau is able to effectively track that all cannabis goods are reaching customers in California. This subsection also ensures that cannabis goods that are being delivered by licensees are not being diverted into the illegal or unregulated market or to other states.

Proposed subsection (b) requires that a delivery employee not leave the State of California while delivering cannabis goods. Requiring the delivery of cannabis goods to locations and routes wholly within the State of California helps to rectify potential conflicts with federal narcotics laws, and complies with the Act that restricts cannabis activity to within the state.

Proposed subsection (c) prevents a retailer from making a delivery to an address on publicly owned or leased land or buildings. This provision also helps to rectify potential conflicts with federal law by prohibiting deliveries to national parks, federally owned buildings, or other government-owned properties.

Proposed subsection (d) clarifies that a delivery employee may deliver to any jurisdiction within the State of California. This proposed subsection specifies where a delivery employee may deliver within the State of California, which is to any jurisdiction within the State of California. Business and Professions Code section 26090 subdivision (e) prohibits a local jurisdiction from preventing delivery of cannabis goods on public roads by a licensee acting in compliance with law. This is necessary to clarify that MAUCRSA and its implementing regulations do not impose restrictions or limit where a delivery employee may deliver, as long as it is within the State of California.

### **§ 5417. Delivery Vehicle Requirements**

The Act mandates the Bureau to craft regulations that ensure the safe and secure operation of the commercial cannabis market. The Act permits retailers to deliver medicinal cannabis goods but does not provide clarification on how the delivery is to be executed.

The purpose of this proposed section is to mitigate potential theft, diversion into the illegal and unregulated market, and unsafe licensed activities while cannabis goods are being delivered. The provisions in this proposed section are intended to enhance public health and safety by reducing the risk of theft of product.

Proposed subsection (a) describes the requirements for a vehicle used in the delivery of medicinal cannabis goods. The vehicle is required to be an enclosed motor vehicle in order to increase public health and safety by limiting the potential for theft or other crimes while a delivery driver engages in the delivery process. This proposed subsection also requires that the vehicle be operated by a delivery employee of the retailer. This requirement is

intended to ensure that the retailer's delivery employee is in control of the movement of the cannabis goods throughout the delivery process.

Proposed subsection (b) requires that the delivery employee ensure that any cannabis goods that are being delivered are not visible to the public. This requirement serves to enhance public health and safety by limiting the risk of the delivery employee becoming a target of theft or other criminal activity.

Proposed subsection (c) provides that cannabis goods may not be left in the vehicle unattended unless the vehicle is equipped with a vehicle alarm system. This proposed subsection reduces the risk of cannabis goods being stolen from within the delivery vehicle while the delivery staff has left the vehicle to make a delivery.

Proposed subsection (d) requires that all delivery vehicles be outfitted with a device for tracking the vehicle's geographic location. The purpose of this proposed subsection is to allow the Bureau to effectively monitor delivery vehicles. The subsection requires that the device be permanently or temporarily affixed to the vehicle. The subsection also requires that the device be functioning the entire time the vehicle is making deliveries. It is essential that a retailer have a record of where its delivery vehicles are located at all times and that the Bureau can be provided that information for enforcement purposes. The devices must be affixed to the vehicle at all times during delivery so that the device is not removed from the vehicle while the delivery employee is making a delivery. This is likely to happen if the device is also being used as a cellular phone. In addition, if a delivery vehicle with cannabis goods is stolen, it would be beneficial to have the GPS device inside of the vehicle for tracking purposes.

Proposed subsection (e) requires the licensee to provide the Bureau with information pertaining to delivery vehicles, including the make, model, color, VIN, license plate number, and DMV registration information. These requirements are important to assure that licensees are maintaining accurate records. They also enable the Bureau to effectively monitor whether licensees are conducting deliveries consistent with the Act and its implementing regulations.

Proposed subsection (f) allows the Bureau to inspect any vehicle that is used for delivery. This is important for the Bureau's ability to effectively monitor licensees and ensure that the delivery vehicles meet the requirements.

### **§ 5418. Cannabis Goods Carried During Delivery**

The Act mandates the Bureau craft regulations that ensure the safe and secure operation of the commercial cannabis market. The Act does not provide clarity as to how retailers are required to accept or process orders of cannabis goods for delivery. The Act also does not specify how much product a delivery driver may carry while making deliveries.

This proposed section is necessary to enhance public health and safety by mitigating not only the loss of cannabis goods, but the potential for theft and other crimes during delivery. The proposed section also ensures that all cannabis goods leaving the retail premises with a

delivery employee are properly accounted for. Limiting the amount of cannabis goods that a delivery employee may carry also limits the amount of loss that may occur in the case of theft. It also reduces the risk of a delivery driver's consumption during delivery.

Proposed subsection (a) provides that a delivery employee may not carry cannabis goods in excess of \$10,000 at any time. The purpose of this proposed rule is to limit the amount of cannabis goods that a delivery employee carries, thereby limiting the amount of cannabis goods that may be lost or diverted in the case of theft or another crime. The Bureau has determined that \$10,000 of cannabis goods is an appropriate amount because it enables a delivery driver to accept additional orders while already on the road, resulting in economies of scale. This amount also ensures that drivers do not have to drive back and forth between delivery locations, and the retail premises; reducing the amount of vehicle miles traveled will minimize potential environmental impacts associated with greenhouse gas.

Proposed subsection (b) provides that a delivery employee may only carry cannabis goods in the delivery vehicle, and may only perform deliveries for one licensed retailer at a time. The purpose of this subsection is to assure that licensees and the Bureau may effectively track the activities of that particular licensee at a given time. Permitting drivers to operate for multiple licensees or conduct other business may conflate records, comingle product, and may increase the potential for loss or diversion due to theft or other criminal activities. This subsection assures that both licensees and the Bureau may effectively track a particular licensee's activities at a given time.

Proposed subsection (c) provides that a delivery employee shall not leave the licensed premises without at least one delivery order that has been received and processed by the retailer. This subsection assures that delivery drivers are not aimlessly driving around, waiting for orders. Allowing delivery drivers to do so would not only result in potential environmental impacts associated with greenhouse gasses, but increase potential opportunities for theft or other crimes, as the driver may be a potential target.

Proposed subsection (d) provides that a delivery driver must have a delivery inventory ledger of all cannabis goods provided to the delivery driver. After each delivery, the driver must update the ledger to reflect the current inventory in its possession. This requirement serves to aid both licensees and the Bureau to effectively track product that is being conveyed by delivery drivers. Detailed record keeping helps minimize potential losses or diversion because all product would need to be accounted for. Any discrepancies in records and product could possibly be identified based on the ledger. Moreover, it provides both licensees and the Bureau additional opportunities to audit licensee and employee activities.

Proposed subsection (e) requires delivery drivers to maintain a log of all stops from the time of the driver leaves the licensed premises to the time they return to the licensed premises. This requirement, as with the ledger, serves to aid both licensees and the Bureau to effectively track the activities of the delivery employees. As with the delivery ledger, it provides both licensees and the Bureau additional opportunities to audit licensee and employee activities.

Proposed subsection (f) requires that prior to arrival at any delivery location, the licensed retailer must have received the delivery request from the customer and provided the delivery request receipt to the delivery driver electronically or in hard copy. This requirement aids the licensees and the Bureau to effectively track the activities of the delivery employees and reduces the risk of unauthorized diversion.

Proposed subsection (g) provides a list of documents a delivery driver must provide to the Bureau or any law enforcement officer upon request. Specifically, drivers must provide their inventory ledgers, delivery request receipts, and log of all stops for inspection. This enables the Bureau and law enforcement to effectively audit licensee and employee activities. It also ensures that the Bureau and law enforcement have all the information necessary to evaluate whether the delivery driver is operating in conformance with the Act and its implementing regulations.

Proposed subsection (h) provides that if a delivery driver does not have any delivery requests for a 30-minute period, they must cease making any deliveries and return to the licensed premises. This subsection serves to prevent delivery drivers from driving around aimlessly or idling while they wait for additional orders to come through, thus limiting the potential environmental impacts associated with greenhouse gasses and potential opportunities for theft or other crimes.

Proposed subsection (i) provides that upon returning to the licensed premises, all undelivered cannabis goods shall be returned to inventory and all necessary inventory and track-and-trace records be updated as appropriate. This requirement assures that the movement of cannabis goods is properly accounted for through track-and-trace and limits the potential for diversion. It also assures that retailer licensees maintain up-to-date record keeping as orders are sent and received throughout the day.

#### **§ 5419. Cannabis Consumption During Delivery**

The Act mandates the Bureau craft regulations that ensure a safe and secure operation of the commercial cannabis market. This proposed section prohibits delivery employees from consuming cannabis while making deliveries. This proposed section is necessary to protect public safety by ensuring that drivers are not operating motor vehicles and making deliveries while impaired.

#### **§ 5420. Delivery Request Receipt**

Business and Professions Code section 26090, subdivision (c), mandates that each delivery of cannabis goods be accompanied by delivery request documentation; however, the act fails to specifically identify what information is to be captured on the delivery request documentation. The Business and Professions Code also does not clearly state the manner and method of receipt collection and retention.

Proposed subsection (a) lists the information that is required to appear on the delivery request receipt. The name and address of the retailer is necessary to identify the retailer that completed the delivery. The name of the delivery employee is also important to identify the

identity of the individual employee who performed the delivery. The name of the employee who prepared the delivery is important because if the employee who delivered the medicinal cannabis goods was not the same employee who prepared the delivery, any problem with the preparation of the order would be attributable to the preparer and not the delivery employee. This information is required to identify the preparing employee. The identity of the customer who requested the delivery is important because the Bureau may need to verify the identity of the customer. The date and time the delivery request was made and completed is important for the identification of the transaction. The delivery address is necessary because the Bureau may need to verify that the delivery was made to a valid California address. Additionally, the Bureau or law enforcement may need to get in contact with the customer who requested the delivery in the event of an investigation. A description of the cannabis goods delivered, and the total amount paid for the delivery is important to identify the transaction. Additionally, information regarding the cannabis goods sold and the amount paid may be vital in the case of an investigation and to track the product was legally sold to a customer. The signature of the customer who received the delivery is important in verifying that the customer did in fact receive the order.

Proposed subsection (b) requires that the delivery employee provide the customer with a copy of the receipt and bring a copy of the receipt back to the retailer. This is important because it provides the customer with an opportunity to verify the transaction before signing the receipt. Also, requiring the maintenance of copies of all transactions allows for the Bureau to inspect all necessary records during the course of an investigation; a retailer will be able to provide information on every delivery it performed.

Proposed subsections (c) and (d) provide additional clarity by defining the terms “employee number” and “customer number” as used in this section. This is necessary to ensure that licensees understand their responsibilities to identify employees and customers under this proposed section, while protecting identification of these persons by other people which could compromise privacy and safety.

This section is necessary to comply with the requirements of the Act and to effectively track deliveries of cannabis goods. Ensuring that every transaction is associated with a legitimate sale to a customer is vital to preventing the entry of untested cannabis goods into the market and diversion of cannabis goods into the illegal unregulated market. By clearly identifying what information is required, this section provides the Bureau unique and specific information which can be utilized during retailer audits. Requiring the receipt be prepared in advance of the delivery helps to prevent diversion of medicinal cannabis goods and ensures that all medicinal cannabis goods leaving the retailer are properly accounted for.

### **§ 5421. Delivery Route**

If a specific delivery route is not defined, the delivery employee has unfettered freedom of movement. This freedom could potentially increase the opacity of the activity, making diversion and illegal activity more likely to occur. Without a clearly defined delivery plan, enforcement of proper and improper activity is more difficult.

This section is necessary to ensure cannabis goods stay within the designed supply chain and prevent diversion and other illegal activity. This section requires that delivery employees travel between the licensed retailer to the delivery address, from one delivery address to another delivery address, or from a delivery address back to the licensed retail premises. This requirement reduces the duration that product is en route, which lowers the risk of loss due to theft or other crime. This section also recognizes the need for flexibility in delivery of cannabis goods and provides reasonable exceptions for justifiable delivery path deviations.

### **§ 5422. Receiving Shipments of Inventory**

This proposed regulation provides the requirements that a retailer must comply with in receiving shipments of inventory of cannabis goods. The purpose of this proposed regulation is to reduce the risk of theft of cannabis goods while a retailer is accepting inventory shipments.

Subsection (a) of this proposed section clarifies that all shipments of inventory be delivered by a licensed distributor as required under Business and Professions Code section 26070, subsection (b). This proposed subsection restates the statutory requirements for clarity purposes.

Proposed subsection (b) limits the time a licensed retailer may accept shipments of inventory to between 6:00 a.m. and 10:00 p.m. Retailers face an increased risk of theft or other crime while receiving shipments between the hours of 10:00 p.m. and 6:00 a.m. This is due to the fact that it is typically darker at this time and there are fewer people out in public. By requiring retailers to avoid receiving shipments of inventory during these times, the retailers are able to reduce the risk of theft or other crime that may occur while a retailer is receiving a shipment of inventory.

Proposed subsection (c) requires that retailers receive shipments of inventory through an entryway that is not used by the public to enter or exit the premises. This reduces the risk of an individual who is not an employee of the licensee gaining access to the products that are being received by the retailer. Requiring the use of an entryway that is free of customers and other non-employee individuals reduces the risk of theft or other crime that may occur while a retailer is receiving a shipment of inventory.

### **§ 5423. Inventory Documentation**

This proposed section provides the required inventory information that a retailer is required to document and maintain records on. The purpose of this proposed regulation is to ensure the effective use of the state track and trace system. This will in turn allow the Bureau and the other state licensing authorities to effectively track the movement of cannabis goods throughout the state. This proposed section requires that a retailer keep records of specific information for all cannabis goods in the retailer's inventory.

The information requested in subsections (a) and (b) is necessary for inventory documentation. By documenting the description of each item in the inventory and the

amount of each item, a retailer will be able to identify the items found in its inventory. Additionally, the Bureau may use this information to cross-reference with the track and trace system to verify that all the retailer's transactions and inventory levels were properly reported in the track and trace system.

The information requested in subsection (c) is required to ensure that the retailer's records are consistent with the information in the track and trace system. Subsection (d) is necessary to verify that the retailer is not carrying any items for sale that are past their sell-by or expiration date if one is provided. The information requested in subsections (e) and (f) are necessary for verifying that the information entered into the track and trace system corresponds with the retailer's inventory records.

All the information required by this section is information that will allow of the identification of all cannabis goods in the retailer's inventory as well as information for tracking the movement of all products. For the Bureau to effectively regulate its licensees, the Bureau requires accurate information regarding the movement of cannabis goods. Requiring that all retailers keep records of this inventory information and make these records available to the Bureau will assist the Bureau in effectively tracking the movement of cannabis.

#### **§ 5424. Inventory Reconciliation**

This proposed regulation provides the requirements for retailers conducting inventory reconciliation. Inventory reconciliation is necessary to verify that the retailer's inventory record is accurate. Inventory reconciliation is an effective method for identifying diversion. If, through inventory reconciliation, a retailer discovers that some amount of inventory is unaccounted for, an investigation of the possible diversion of the missing cannabis goods can begin with the goal of returning the missing cannabis goods and preventing that type of loss from occurring in the future.

Proposed subsection (a) requires that inventory reconciliation occur at least every 14 days. The reason for this requirement is that the inventory of a retailer is constantly changing because retailers continuously receive shipments of cannabis goods while selling the cannabis goods from their current inventory to customers. Regular inventory reconciliations ensure that the retailer's inventory is up-to-date, and that any indications of diversion, theft, or loss are identified early. The Bureau has determined that requiring inventory reconciliations every 14 days will allow for the early identification of evidence of diversion, theft, or loss, without being overly burdensome.

Proposed subsection (b) provides a description of what a retailer must do when conducting an inventory reconciliation. When conducting an inventory reconciliation, a retailer is required to verify that the physical inventory that they have on hand is consistent with their records pertaining to their inventory. This is important to verify that the retailer's inventory records are accurate. In order to effectively track the movement of cannabis goods through the state track and trace system, the retailer's inventory records must be accurate. This proposed regulation ensures accuracy of retail inventory records.

Proposed subsection (c) requires the retailer to retain the results of inventory reconciliations as part of the retailer's records. The proposed subsection also requires the retailer to provide such records to the Bureau upon request. This requirement would allow the Bureau to review the results of an inventory reconciliation performed even after the date the inventory reconciliation occurred.

Proposed subsection (d) requires a retailer to notify the Bureau and law enforcement if the inventory reconciliation results in evidence of theft, diversion, or loss. This is a restatement of the requirement found in Business and Professions Code section 26070, subsection (k) and Section 5036 of this division. The requirement is restated in this proposed subsection for clarity. The obligations of a retailer following the conclusion of an inventory reconciliation that yields evidence of theft, diversion, or loss appear to be appropriate for restatement in this proposed section rather than requiring a licensee to refer to both the regulations and the statutes simultaneously for the requirements in this situation.

Proposed subsection (e) requires a retailer to notify the Bureau and law enforcement if the inventory reconciliation results in evidence of theft, diversion, or loss. This is a restatement of the requirement found in Business and Professions Code section 26070, subsection (k)(1) and section 5034 of this division. The requirement is restated in this proposed subsection for clarity. The obligations of a retailer following the conclusion of an inventory reconciliation that results in a significant discrepancy in inventory appear to be appropriate for restatement in this proposed section rather than requiring a licensee to refer to both the regulations and the statutes simultaneously for the requirements in this situation.

The Act requires that retailers notify law enforcement and the licensing authority if a significant discrepancy in inventory is identified or if diversion, theft, or loss occurs. This proposed section allows a retailer to more readily identify instances of loss by requiring regular inventory reconciliations be performed by retailers.

#### **§ 5425. Record of Sales**

This proposed regulation provides the requirements for the information that must be documented for each sale of cannabis goods to a customer. The purpose of this proposed regulation is to ensure that retailers are keeping accurate records of sales transactions which would allow the Bureau to effectively track the movement of cannabis goods throughout the state. Additionally, the information required to be kept by these subsections is required for the Bureau to effectively enforce regulations regarding cannabis goods sales.

Proposed subsection (a) requires a licensed retailer to maintain an accurate record of every sale to a customer. This proposed subsection clarifies the requirement under Business and Professions Code section 26160 that every licensee keep an accurate record of commercial cannabis activity, which includes sale of cannabis goods to customers. This proposed subsection helps to eliminate any confusion as to whether a sale of cannabis goods to a customer is required to be maintained as a record.

Proposed subsection (b)(1) requires the record of sale to contain the name and employee number of the retailer employee who processed the sale. This information is necessary to

identify the employee responsible for conducting the sale transaction in case issues arise and the employee is required to be contacted by the Bureau or law enforcement for information pertaining to the transaction.

Proposed subsection (b)(2) requires the retailer to record the first name and the customer number of the customer who purchased the cannabis goods. This information is necessary to identify the customer in case issues arise and the customer is required to be contacted by the Bureau or law enforcement for information pertaining to the transaction. Assigning a customer number to each customer allows the retailer to keep a record of the transaction without having to disclose the full name of the customer.

Proposed subsections (b)(3), (b)(4), and (b)(5) require the retailer to record the date and time of the transaction, a list of all cannabis goods purchased, and the amount paid for the cannabis goods. This information is necessary to properly identify the transaction and to ensure that the movement of cannabis goods is properly being recorded by the retailer so that the information can properly be uploaded to the track and trace system. By requiring the retailer to record the amount paid for the cannabis goods, the Bureau can ensure that retailers are not providing customer with free cannabis goods in violation of the Act.

These elements are needed because the record of each sale can be used by the Bureau to monitor a retailer's activity and ensure that the retailer is following the rules regarding sales. If it becomes necessary for the Bureau to investigate a specific sales transaction for enforcement purposes, the information required by these subsections will aid the Bureau in obtaining needed information regarding the sale.

Proposed subsections (c) and (d) provide additional clarity by defining the terms "employee number" and "customer number" as used in this section. This is necessary to assure that licensees understand their responsibilities to identify employees and customers under this proposed section.

#### **§ 5426. Records**

This proposed regulation clarifies that a retailer is responsible for maintaining records in accordance with proposed section 5037 of this division. The purpose of this proposed regulation is to eliminate any confusion for retailers on how they are required to maintain their records, and is required under MAUCRSA.

#### **§ 5427. Retailer Premises to Retailer Premises Transfer**

This proposed regulation provides the requirements for a retailer transferring cannabis goods to another licensed retail premises.

Proposed subsection (a) requires that for a retail licensee to transfer cannabis goods from one licensed retail premises to another licensed retail premises, the same licensee must hold the both retail licenses. Proposed subsection (b) clarifies that when a licensee transfers cannabis goods from one retail location to another retail location, the receiving retail location may sell the cannabis goods. These proposed subsections clarify that a licensee who holds multiple retail licenses may transfer cannabis goods from one retail license to

the other. It also recognizes that licensees with multiple licensed premises may have a need to adjust the inventory at their stores to address local supply and demand.

Proposed subsection (c) clarifies that all transportation of cannabis goods under this section must comply with all the requirements regarding the transportation of cannabis goods. The purpose of this proposed subsection is to prevent licensees from conducting the transportation of cannabis goods in violation of requirements found in other section of the statutes or regulations.

Proposed subsection (d) clarifies that any cannabis goods transferred under this section be properly recorded in the track and trace system. In order to effectively track the movement of cannabis goods throughout the state, the track and trace system must be properly updated with all transactions affecting the movement of cannabis goods. The purpose of this section is to ensure that the transport of cannabis under this proposed section complies with the tracking requirements within the Act. It also ensures that the Bureau is able to review accurate records regarding the transfer of products between retail stores.

#### **§ 5500. Microbusiness**

Business and Professions Code section 26070, subdivision (a)(3) provides that the Bureau must establish a process by which an applicant for a microbusiness can demonstrate compliance with all the requirements under the Act for the activities that will be conducted under the license. This section is necessary to clarify the requirements for licensure, when an applicant seeks a microbusiness to conduct multiple commercial cannabis activities.

The Act is silent as to how many commercial cannabis activities an applicant must engage in to qualify for a microbusiness license. Subsection (a) is necessary because it clarifies that a licensee must engage in at least three of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail. This requirement is necessary to ensure that applicants are actually microbusinesses rather than using the license as a substitute for single activity licenses. This subsection is also necessary because it provides clarification to prospective microbusiness applicants regarding the premises requirements for microbusinesses engaging in manufacturing and cultivation activities.

To assure that applicants are identifying all commercial cannabis activities they wish to engage in, subsection (b) clarifies that an applicant for a microbusiness license must identify all commercial cannabis activities it wishes to engage in on its application. This requirement is necessary because it aids the Bureau's processing of the application. It also helps the Bureau maintain accurate records and ensures applicants are qualified for the type of license they are applying for.

Proposed subsection (c) is necessary to assure that all applicants applying for the requested commercial cannabis activities are supplying consistent information to the licensing entities for review. This requirement is necessary because it aids the Bureau's processing of the application. It also helps the Bureau maintain accurate records and ensures applicants are qualified for the type of license they are applying for.

**Pages 120-567  
Intentionally Omitted**

# EXHIBIT C

(Relevant Excerpts from Bureau of Cannabis Control California Code of Regulations Title 16, Division 42 – Medicinal and Adult-Use Cannabis Regulation Final Statement of Reasons)

**BUREAU OF CANNABIS CONTROL  
CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 42  
MEDICINAL AND ADULT-USE CANNABIS REGULATION**

January 15, 2019

**ADDENDUM TO THE FINAL STATEMENT OF REASONS**

**BACKGROUND**

On December 7, 2017 the Bureau of Cannabis Control (Bureau) adopted emergency regulations to clarify and make specific licensing and enforcement criteria for commercial cannabis businesses under the Medicinal and Adult-Use Regulation and Safety Act (MAUCRSA or the Act). On June 6, 2018 the Bureau readopted the emergency regulations. On July 13, 2018 the Bureau issued a Notice of Proposed Rulemaking and began a 45-day comment period on the proposed regulations. The Bureau held public hearings on August 7, 2018, August 14, 2018, and August 27, 2018 in Oakland, Los Angeles, and Sacramento respectively. The Bureau submitted the proposed regulations package for review by the California Office of Administrative Law (OAL) on December 3, 2018.

The Bureau hereby incorporates this addendum as part of the final rulemaking package. Unless a specific basis is stated for any modification to the purpose, necessity, and rationale for each adoption as initially stated in the Final Statement of Reasons, the purpose, necessity, and rationale for each adoption of the regulations as set forth in the Final Statement of Reasons continues to apply to the regulations as adopted. The modified purpose, necessity, and rationale for the proposed text of the regulations are summarized below. Additionally, the Bureau has made non-substantive grammatical and format changes for accuracy, consistency and clarity.

**MODIFIED PURPOSE, NECESSITY, AND RATIONALE FOR EACH ADOPTION**

**§ 5001. Temporary Licenses.**

The reference section has been amended to remove a reference to section 26050.1 of the Business and Professions Code. This is necessary for accuracy.

**§ 5010.3 Preparation of CEQA Environmental Documents for Applicant**

The title of this section has been changed from “Preparation of CEQA Environmental Documents by Applicant” to “Preparation of CEQA Environmental Documents for Applicant” for accuracy and clarity.

**§ 5020. Renewal of License**

Proposed subsection (c) provides that a licensee may submit a license renewal form for 30 calendar days after the license expires. Licensees are expected to renew their licenses in a timely manner and licensees that routinely submit their renewal forms late may increase the

administrative burden on the Bureau. This requirement intends to deter licensees from routinely submitting late applications, past the 12-month license requirement of the Act, while also providing a reasonable amount of time for licensees to submit the license renewal form if they wish to continue operating.

To further disincentivize licensees from routinely submitting late renewal forms, this subsection imposes a late fee equal to 50 percent of the applicable license fee required in subsection (a) with any late renewal form. The licensure fees are based on estimated revenue for the 12-month license period, a calculation that is easily performed by applicants and licensees that may be easily verified by the Bureau. The Bureau anticipates its licensees will generate revenue anywhere from \$160,000 to more than \$80 million dollars; the corresponding license fees are scaled to reflect the operations of the licensee. The Bureau determined that having licensees only pay the application fee for a late renewal, or a late fee based on a portion of the application fee, would not be enough to disincentivize routine late submittals. In addition to being an effective deterrent to licensees from routinely submitting late renewal forms, the late fee was determined to be nominal when compared to a licensee's lost revenue after having to cease its operations upon license expiration. For example, a late fee for a retail licensee generating more than \$7.5 million would only be subject to a late fee of \$48,000 - a fee that is minimal compared to the lost revenue upon license expiration.

#### **§ 5050. Loss of Connectivity**

The title of the section has been changed from "Loss of Access" to "Loss of Connectivity" for consistency and clarity with terms used throughout the regulations.

#### **§ 5306. Laboratory Testing Results**

In subsection (d)(1), the term "remediation plan" has been changed to "corrective action plan" for clarity and consistency amongst the sections regarding what licensees can do with manufactured cannabis product batches that have failed testing. This section has also been revised for clarity and consistency with the regulations adopted by the California Department of Public Health.

#### **§ 5700. Definitions**

The definition of "tamper-evident" in subsection (ttt) has been removed; the Bureau has determined that this language is duplicative and not necessary. The subsection has been renumbered accordingly.

#### **§ 5815. Emergency Decision and Order.**

The authority for this section has been revised to remove a reference to section 11460.30 of the Government Code. This is necessary for accuracy.

**§ 5900. Eligibility.**

The authority for this section has been revised to remove a reference to section 34019 of the Revenue and Taxation Code. This is necessary for accuracy.

**BUREAU OF CANNABIS CONTROL  
CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 42  
MEDICINAL AND ADULT-USE CANNABIS REGULATION**

**FINAL STATEMENT OF REASONS AND UPDATED INFORMATIVE DIGEST**

**SUBJECT MATTER OF PROPOSED REGULATIONS:** Medicinal and Adult-Use Cannabis Regulation

**SECTION(S) AFFECTED:**

**Adopt**

Cal. Code Regs., Tit. 16, §§5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5007.1, 5007.2, 5008, 5009, 5010, 5010.1, 5010.2, 5010.3, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5024.1, 5025, 5026, 5027, 5028, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5040.1, 5041, 5041.1, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5052.1, 5053, 5054, 5300, 5301, 5302, 5303, 5303.1, 5304, 5305, 5305.1, 5306, 5307, 5307.1, 5307.2, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5402, 5403, 5403.1, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5415.1, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5426, 5427, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5506.1, 5507, 5600, 5601, 5602, 5603, 5604, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814, 5815, 5900, 5901, 5902, 5903, 5904 and 5905

**BACKGROUND**

On December 7, 2017 the Bureau of Cannabis Control (Bureau) adopted emergency regulations to clarify and make specific licensing and enforcement criteria for commercial cannabis businesses under the Medicinal and Adult-Use Regulation and Safety Act (MAUCRSA or the Act). On June 6, 2018 the Bureau readopted the emergency regulations. On July 13, 2018 the Bureau issued a Notice of Proposed Rulemaking and began a 45-day comment period on the proposed regulations. The Bureau held public hearings on August 7, 2018, August 14, 2018, and August 27, 2018 in Oakland, Los Angeles, and Sacramento respectively. The Bureau received thousands of comments, both oral and written, on the proposed regulations. Based on review of the comments received, the Bureau determined that there were a number of sufficiently related changes to the proposed regulations that were necessary to clarify certain sections and provisions. These changes included clarifying sections and provisions of the regulations that were impacted by recent legislative changes to the Act, such as expanding the locations that temporary cannabis events can be held at and preventing the sell and transport of cannabis goods that are labeled with terms that would create a misleading impression that the product is an

alcoholic beverage. Additional changes included clarifying which individuals in a multi-layer business structure must be disclosed as owners or financial interest holders in an application for a commercial cannabis business and expanding on a distributor's ability to label or re-label cannabis goods with the amounts of cannabinoids and terpenoids after receiving a certificate of analysis for regulatory compliance testing. Pursuant to Government Code section 11346.8, subdivision (c) and section 44 of Title 1 of the California Code of Regulations the Bureau made substantive and sufficiently related changes to the proposed regulations and circulated them to the public for a 15-day comment period.

## **UPDATED INFORMATIVE DIGEST**

There have been no substantial changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action. However, several bills were passed during the legislative session that modify the Act. Each bill that impacted the Bureau's proposed regulations is summarized below. Further discussion of the bills and their impacts on specific proposed regulations is included in the summary of changes made to the proposed regulations.

Stats. 2018, Chapter 556 (SB 311), which became effective on September 19, 2018, amended Section 26110 of the Business and Professions Code and authorizes a licensed distributor to transport cannabis or cannabis products that are fit for sale to the premises of another licensed distributor for further distribution.

Stats. 2018, Chapter 857 (SB 1459), which became effective on September 27, 2018, added Section 26050.2 to the Business and Professions Code and, until January 1, 2020, authorizes a licensing authority to issue a provisional license for commercial cannabis activity if the applicant holds or held a temporary license for the same premises and the same commercial cannabis activity. The bill requires a provisional license to be valid for 12 months and prohibits the license from being renewed. The bill requires the provisions of the Act to apply to a provisional license in the same manner as an annual license, except as specified and exempts the issuance of a provisional license from the California Environmental Quality Act (CEQA). The bill also prohibits the refusal by the licensing authority to issue a provisional license or revocation or suspension by the licensing authority of a provisional license from entitling the applicant or licensee to a hearing or an appeal of the decision.

Stats. 2018, Chapter 827 (AB 2914), which becomes effective on January 1, 2019, adds Section 26070.2 to the Business and Professions Code and prohibits a licensee from selling, offering, or providing a cannabis product that is an alcoholic beverage, including, but not limited to, an infusion of cannabis or cannabinoids derived from industrial hemp into an alcoholic beverage.

Stats. 2018, Chapter 749 (AB 2020), which becomes effective on January 1, 2019, amends Section 26200 of the Business and Professions Code and authorizes a state temporary event license to be issued to a licensee for an event to be held at any other venue expressly approved by a local jurisdiction for events. The bill also amends Section 26200 of the Business and Professions Code to codify requirements that are similar to those provided in the Bureau's emergency regulations, including requiring that all participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event to be licensed to engage in that activity, and requiring an applicant who submits an application for a state temporary event license to, 60 days before the event, provide the Bureau a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event and to update the list in a manner similar to what is provided in the existing emergency regulations. The bill also authorizes the Bureau to require the event and all participants to cease operations without delay if in the opinion of the Bureau or local law enforcement it is necessary to protect the immediate public health and safety of the people of the state. The bill also authorizes the Bureau to require the event organizer to immediately expel from the event any participant selling cannabis or cannabis products without a license from the Bureau that authorizes the participant to sell cannabis or cannabis products and authorizes the Bureau to require the event and all participants to cease operations immediately if the participant does not leave immediately. The bill also specifies that an order by the Bureau for the event to cease operations does not entitle the event organizer or any participant in the event to a hearing or an appeal of the decision and exempts an order by the Bureau for the event to cease operations from specified provisions related to the discipline of a license and from specified provisions related to the appeal of a decision by a licensing authority.

Stats. 2018, Chapter 971 (AB 2799), which becomes effective on January 1, 2019, amends Section 26051.5 of the Business and Professions Code and requires an applicant for initial licensure or renewal of a state license under the Act to provide a statement that the applicant employs, or will employ within one year of receiving a license or renewal, one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry course offered by a training provider that is authorized by an OSHA Training Institute Education Center.

Except as set forth above, there are no other changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

## **UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE DIGEST**

As authorized by Government Code section 11346.9, subdivision (d), the Bureau hereby incorporates the Initial Statement of Reasons prepared in this matter. Unless a specific basis is stated for any modification to the regulations as initially proposed, the necessity for the adoption of new regulations as set forth in the Initial Statement of Reasons continues to apply to the regulations as adopted.

All modifications from the initially proposed text of the regulations are summarized below.

## **MODIFICATIONS MADE AVAILABLE FOR A 15-DAY COMMENT PERIOD**

### **Chapter 1. All Bureau Licensees**

#### Changes Made to Article 1. Division Definitions:

##### § 5000. Definitions

The Bureau has made amendments to this section, including the addition of new definitions. As such, the numbering of the subsections has changed beginning with subsection (b).

The Bureau has added a definition for “branded merchandise.” Branded merchandise has been defined to mean clothing, hats, pencils, pens, keychains, mugs, water bottles, beverage glasses, notepads, lanyards, cannabis accessories, or other types of merchandise approved by the Bureau with the name or logo of a commercial cannabis business licensed pursuant to the Act. The definition further clarifies that branded merchandise does not include items containing cannabis or any items that are considered food as defined by Health and Safety Code section 10993.5. This addition was necessary because the Bureau has proposed to allow distributors to distribute and retailers to sell branded merchandise but had not clarified what constitutes branded merchandise. The Bureau limited branded merchandise to those items often used for marketing to allow licensees to avail themselves of this type of marketing, while not allowing licensees to sell other items that are not cannabis goods or accessories. It was necessary for the Bureau to identify branded merchandise because this broad range of customary branded items provides licensees with a great deal of flexibility, while also ensuring that the health and safety of the public is protected by ensuring that licensees are not using branded materials to appeal to underage persons

The Bureau has added a definition for “business day.” Business day has been defined as a day Monday through Friday from 8:00 a.m. to 5:00 p.m. Pacific Time, excluding state holidays in which the Bureau is closed for business. This was necessary because the Bureau has clarified throughout the regulations its requirements related to a period of days whether the period is business days or calendar days. This change assures that licensees are aware of the appropriate timing associated with the Bureau’s regulatory requirements.

The Bureau has amended the definition of “cannabis waste” to remove a reference to section 5055. This is necessary because the Bureau has amended the sections regarding waste and has removed section 5055 in whole. The Bureau has also removed the references to hazardous waste and organic waste. This change was necessary because the Bureau determined that the terms were not appropriate for all types of cannabis waste that may be generated by a licensee.

The Bureau has amended the definition of “delivery employee.” Since a microbusiness may only engage in cannabis activities it has been authorized to engage in by the Bureau, the Bureau has modified the definition to clarify delivery employee includes an individual employed by a licensed microbusiness authorized to engage in retail sales who delivers cannabis goods. This change is also necessary for consistency of terminology throughout the regulations.

The Bureau has added a definition for “immature cannabis plant” or “immature plant.” The Bureau has defined these terms to mean a plant that is nonflowering and is shorter and narrower than 18 inches. This addition is necessary because the Bureau allows retailers to sell immature cannabis plants but had not previously defined “immature cannabis plant.” The Bureau determined that retailers currently offer small clones and thus, requiring such plants to be under 18 inches was consistent with what retailers were currently offering. This definition is intended to apply only to licensees authorized to engage in retail and clarifies the requirements for a plant to be considered immature and therefore eligible for retail sale.

The Bureau has amended the definition of “limited-access area” to change contractors to authorized individuals. This change was necessary for consistency of terminology throughout the regulations, related to limited-access areas.

The Bureau has removed the definition of “nonvolatile solvent.” The Bureau determined that a definition for the term was unnecessary because the term is not used in the regulations.

The Bureau has added a definition for “promotional materials.” The Bureau has defined “promotional materials” to mean written material other than permitted signs, displays, decorations, cannabis accessories, and the cannabis goods themselves furnished by any licensee under the Act to a retail licensee for advertising purposes. This addition was necessary because the Bureau has proposed to allow distributors to distribute and retailers to provide to customers promotional materials but had not clarified what constitutes promotional materials; the term was ambiguous and required further definition. Limiting promotional materials was necessary to provide licensees with clear guidance regarding what types of materials may be distributed and provided to customers.

The Bureau has amended the definition of “publicly owned land” to also include land that is leased or occupied by a city, county, state, federal, or other government entity. The Bureau recognized that cities, counties, state, federal, or other governmental entities often lease office space or other properties. This change was necessary to clarify that all publicly held land is included in the definition.

The Bureau has added a definition for “tamper-evident.” The Bureau has defined “tamper evident” to mean that the cannabis goods packaging is sealed in a manner that prevents the packaging from being opened without obvious destruction of the seal. This change was necessary

because the Bureau has proposed to allow distributors to package pre-rolls in a tamper-evident package but had not clarified what constitutes tamper-evident packaging. To assure that commercial cannabis licensees that are packaging cannabis goods are held to the same standards, the Bureau’s definition of “tamper-evident” is consistent with the definition promulgated by the California Department of Public Health (CDPH).

The Bureau has added a definition for “wholesale cost” which has the same meaning as the definition adopted by the California Department of Tax and Fee Administration (CDTFA) regarding cannabis taxes. This addition was necessary to ensure consistent use of the term by CDTFA and the Bureau.

Changes Made to Article 2. Applications:

§ 5001. Temporary Licenses

The Bureau has amended the title of this section from “Temporary License Application Requirements” to “Temporary Licenses” and removed subsections (a) through (d) related to application requirements. The Bureau’s authority to issue temporary licenses ceases on January 1, 2019. As the Bureau will no longer be accepting temporary license applications after the proposed regulations become effective, these sections are no longer necessary. The rest of the subsections have been renumbered to reflect the deletion of the subsections.

The reference section has been revised to correct a typographical error.

§ 5002. Annual License Application Requirements

Subsection (c)(15) has been amended to clarify that all business formation documents must be provided to the Bureau to ensure the Bureau can properly evaluate the application. Additionally, the subsection has been amended to include bylaws in the list of business-formation documents that must be provided. This modification was necessary to clarify that the Bureau considers bylaws to be a part of the business-formation documents that must be disclosed with the application. The subsection was also amended to clarify that for a commercial cannabis business held in trust, the applicant shall provide the certificate of trust establishing trustee authority. The subsection previously stated the applicant shall provide a copy of the trust. The amendment clarifies the specific document that must be provided. Collectively, the information collected under this subsection is necessary because it enables the Bureau to determine how the commercial cannabis business will be organized and to ensure that all owners as defined in section 5003 and all financial interest holders in section 5004 are identified.

Subsection (c)(17) has been amended to include foreign limited liability company to account for this type of business structure. The subsection has also been amended to include a certificate of registration or certificate of status in addition to a certificate of qualification. The Bureau

determined that not all foreign business entities would have a certificate of qualification, and thus an amendment to the section was necessary to include the other certificates that a foreign corporation is issued by the Secretary of State. This subsection also made a grammatical change which amended “Secretary of State of California” to “California Secretary of State,” and replaced “the” with “a.”

Subsections (c)(19) and (c)(20) have been amended to reflect the appropriate cross reference to section 5003. This change was necessary to assure that the reader may accurately cross reference the appropriate language.

Subsection (c)(27) amends the term “provisional” to “interim” license for testing laboratories. This change is necessary to avoid terminology confusion due to a recent change in legislation that created a provisional license category for all commercial cannabis licensees.

Subsection (c)(29) was amended to correct a typographical error in the word “license”. The subsection also incorporates by reference several forms to which changes have been made, including updating the “7/18” date to “10/18” for all of the forms to reflect the date the forms were amended. The Transportation Procedures Form, BCC-LIC-015 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 2(d) was amended to correct the spelling of “responsibilities,” and section 2(g) was amended to correct for the removal of a comma after “parcel of land.”

The Non-Laboratory Quality Control Procedures Form, BCC-LIC-017 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 1(a) was amended to correct the spelling of “transferring,” and section 1(b) was amended to correct the spelling of “verifying”, and to make a grammatical correction of adding “and” between primary panel labeling and informational panel labeling, to indicate that these are both inclusive in the materials to be verified. Section 1(d) was also amended to make consistent the heading format, and (1)(d)(i) was amended to correct the spelling of “including.”

The Security Procedures Form, BCC-LIC-018 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 3(b) was amended to correct a typographical error that omitted language that was intended to be included. Language was added to complete the sentence in its entirety so as to clarify to applicants that the description to be provided under this subsection is pertaining to how the applicant will ensure that only authorized persons have access to the licensed premises and its limited access areas. Section 5(f) was amended to correct a typographical error that omitted language that was intended to be included. Language was added to complete the sentence in its entirety so as to clarify to applicants that the description to be provided under this subsection is pertaining to how the applicant will produce copies of video recordings at the licensed premises immediately upon request by the Bureau. Section 7(e) was amended to correct a typographical error that omitted language that was

intended to be included. Language was added to complete the sentence in its entirety so as to clarify to applicants that the description to be provided under this subsection is pertaining to how the applicant will be sharing the alarm system with other licenses (when sharing services at the same location), if applicable.

The Cannabis Waste Management Procedures Form, BCC-LIC-019 (New 7/18) has been removed to no longer require cannabis waste management procedures be submitted to the Bureau. Due to changes made to the sections on cannabis waste, this section is no longer necessary.

The Delivery Procedures Form, BCC-LIC-020 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 1 was amended to correct for the removal of a comma after “Provide” starting in the second sentence. This section was also renumbered to subsection (c)(29)(E) based on the removal of a subsection.

Subsection (c)(33) has been amended to add additional references to sections related to the California Environmental Quality Act for clarity. The section has also been amended to correct a grammatical error.

Subsection (c)(34) has been added to require applicants to provide their State Employer Identification Number (SEIN) issued by the California Employment Development Department. This number is necessary to ensure that all applicants that are required to obtain such a number have obtained it and are thus, in compliance with California law.

Subsection (c)(35) has been added to require applicants with more than one employee, to attest that they currently employ, or will employ within one year of receiving a license, at least one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center. This addition is necessary to align with Assembly Bill 2799, amending Business and Professions Code section 26051.5 to include such a requirement. This will also provide the Bureau an application with the necessary attestations to ensure that the applicant meets the requirements for licensure.

#### § 5003. Designation of Owner

Subsection (a) has been amended to clarify that reference to section 5002 is a reference to section 5002 of this division. This change was necessary for clarity and consistency throughout the regulations.

Subsection (b) has been amended to add an additional provision. Former subsection (b)(5) is now subsection (b)(6). All owners are required to be disclosed on the application and must submit fingerprint images to the Department of Justice. (Bus. & Prof. Code, § 26051.5.) Accordingly,

new subsection (b)(5) includes as an owner an individual who is entitled to a share of 20 percent of the profits of the commercial cannabis business. Inclusion of this provision is necessary because commercial cannabis businesses are seeking alternative methods to acquire capital to cover business costs due to traditional business loans being unavailable. Because of these nontraditional methods, some commercial cannabis businesses have owners that are entitled to profits but may not consider themselves as falling under the aggregate ownership interest of 20 percent because they did not personally provide that much capital to the startup costs. This provision makes clear that an aggregate ownership of 20 percent could be someone who is entitled to at least 20 percent of the profits regardless of how much of an investment they made into the company. This provision also assures that all individuals who meet the definition of “owner” are disclosed as part of an application for licensure.

New subsection (b)(6) contains those persons who fall under the statutory provision that an owner is an individual who will be participating in the direction, control, or management of the person applying for a license. Following the 45-day comment period, the Bureau proposed to add additional provisions to part (D). The Bureau proposed to expand this subsection by adding parts (D)(i)-(D)(iv) to provide examples of which individuals fall under the owner category of an “individual who assumes responsibility for a license.” However, after reviewing comments regarding the section and receiving feedback from stakeholders, the Bureau determined that subsection (b)(6)(D) had created more confusion than clarity. Thus, the Bureau has withdrawn subsection (b)(6)(D).

Subsection (c) has been amended to clarify that when an entity has a 20 percent ownership interest in the commercial cannabis business, then all individuals who are owners of that entity shall be considered owners of the commercial cannabis business. This subsection has also been amended to provide examples such as all entities in a multi-level ownership structure are included as owners as well as persons that have control of a trust, chief executive officers, members of a board of directors, partners, trustees, and managing or non-member managers of the entity. Further clarification is provided by indicating the disclosures must trace back to the actual person holding an interest until only individuals remain. The Bureau has received numerous questions regarding this issue, with many applicants not understanding that the intent of this section was to reach the individual owners of an entity that owns a portion of the commercial cannabis business. Because all owners are required to be disclosed on an application for licensure, this modification is necessary to provide clarity to applicants on which individuals will be considered an owner of a commercial cannabis business when an entity owns a portion of the commercial cannabis business. To determine if a person has an aggregate interest of more than 20%, disclosure of actual individuals with ownership in entities is necessary. This provision assures that all individuals who meet the definition of “owner” are disclosed as part of an application for licensure.

#### § 5004. Financial Interest in a Commercial Cannabis Business

Subsection (a) has been amended to remove the last sentence. This was necessary because the rule was repeated in subsection (d)(2). This subsection has also been amended to expand on what “an agreement to receive a portion of the profits” includes. The Bureau received comments and questions regarding this and determined it was necessary to expand on the provision by providing specific examples of agreements to receive a portion of the profits. The subsection now includes the following: an employee who has entered into a profit share plan with the commercial cannabis business; a landlord who has entered into a lease agreement with the commercial cannabis business for a share of the profits; a consultant who is providing services to the commercial cannabis business for a share of the profits; a person acting as an agent, such as an accountant or attorney for the commercial cannabis business for a share of the profits; a broker who is engaging in activities for the commercial cannabis business for a share of the profits, and a salesperson who earns a commission. With the expanded section, applicants will have clear guidance on which individuals need to be disclosed as financial interest holders.

A new subsection (c) has been added. The new subsection clarifies that if an entity has a financial interest in a commercial cannabis business, then all individuals who are owners of that entity shall be considered to have a financial interest in the commercial cannabis business. This subsection has also been amended to provide examples such as all entities in a multi-level ownership structure are included as having a financial interest as well as persons that have a profit-sharing plan, have a lease agreement for a share of the profits, are a consultant providing services for a share of the profits, are acting as an agent and receiving a share of the profits, are a broker receiving a share of the profits, and are a salesperson earning commission. Further clarification is provided by indicating the disclosures must trace back to the actual person holding an interest until only individuals remain. The Bureau has received numerous questions regarding this issue with many applicants not understanding that the intent of this section was to reach the individual owners of an entity that has a financial interest in the commercial cannabis business. Accordingly, this change was necessary to clarify which individuals need to be identified on the application as financial interest holders when an entity is a financial interest holder.

Former subsection (c) has been renumbered to subsection (d).

#### § 5006. Premises Diagram

Subsection (c) has been amended to include the activity of infusion in the examples of commercial cannabis activities that must be included on the premises diagram. This change was necessary to provide additional examples of commercial cannabis activities that Bureau licensees may be engaged in on their premises. This addition will aid both applicants and Bureau staff in clearly identifying, with sufficient particularity, the characteristics of the premises.

Subsection (d) has been amended to provide a cross-reference to section 5315 which exempts from video surveillance requirements distributor transport only licensees who are operating on the same parcel of land as their manufacturing or cultivation licensed premises. This change was necessary to provide clarity to applicants so that they would know exactly what is required on the premises diagram for their license type. It also assures that readers may accurately reference the section regarding distributor transport only licensees.

Subsection (i) has been amended to remove the reference to subsections (b) through (g). The Bureau determined that this reference was not accurate and thus, it was necessary to make an amendment.

The reference section has been revised to correct a typographical error.

#### § 5007.2 Use of Legal Business Name

This new section would require applicants and licensees to use their legal business name on all documents related to commercial cannabis activity. This section is necessary because the Bureau has found that applicants and licensees are using “doing business as” (DBA) names on some documents and their legal business names on others. This creates confusion for the licensing authorities and the licensees. Therefore, the Bureau determined it was necessary to require that licensees use their legal business name on all documents related to commercial cannabis activity.

#### § 5008. Bond

This section has been amended to clarify that a bond is required for each license. The Bureau has received a number of questions regarding this requirement. This amendment was necessary to provide clarity to applicants regarding the requirement to have a bond for each license they apply for, as required by the Act.

#### § 5010. Compliance with the California Environmental Quality Act (CEQA)

Subsection (c) of this section has been amended to require use of the CEQA Project-Specific Information Form, BCC-LIC-025 (New 10/18) which has been incorporated by reference. Prior to issuing a license, the Bureau must ensure the appropriate level of environmental review under CEQA has been completed. The inclusion of a form was necessary to guide applicants and ensure they provide sufficient information for the Bureau to determine whether the issuance of a license has the potential to generate significant adverse environmental impacts that might trigger further CEQA review. Specifically, the form will ensure that applicants adequately describe the location of their license; describe surrounding land uses and zoning designations; provide a vicinity map to show the license location; provide photographs of the existing visual conditions; describe the requested license activities and whether any physical modifications will be required;

describe related public agency permits and approvals; describe potential impacts to public services and utilities; and describe potential environmental impacts related to licensure.

Revised subsection (c) to correct several grammatical errors.

#### § 5010.2 CEQA Exempt Projects

Section 5010.2 allows applicants to submit documentation to the Bureau demonstrating that a project is exempt from further environmental review pursuant to CEQA because the project falls within a class of projects under the CEQA Guidelines that have been determined not to have a significant effect on the environment. Subsection (a) has been amended to require use of the CEQA Exemption Petition Form, BCC-LIC-026 (New 10/18) which has been incorporated by reference. The inclusion of a form was necessary to guide applicants and ensure they provide adequate information to facilitate the Bureau's determination of whether a license may be exempt from further CEQA review. Specifically, the form ensures that applicants provide general information about the project location and an explanation as to how the applicant's licensed premises may fit into one of the categorical exemptions identified in the CEQA guidelines.

Subsection (c) has been amended to change 5 working days to 5 business days. This was necessary to provide consistency with the rest of the regulations that use the term business days rather than working days.

#### Changes Made to Article 3. Licensing:

##### § 5014. Fees

The fees outlined in this section were revised based on updated recommendations from the economists at the University of California Resources Center (AIC). Such revisions were necessary due to newly available information regarding the type and number of prospective/active licenses, as well as feedback about how fees were calculated. The Bureau determined it was necessary to adjust the scaling and tiering of the fees to reflect the sizes and types of the business entities seeking licensure. The fees are now based on estimated revenue, specifically gross revenue for the 12-month license period, a calculation more easily performed by applicants and licensees that may be easily verified by the Bureau. This change is also reflected in the annual license fee table. Additionally, the fee table has been changed to remove "Distributor Transport Only" as a separate fee category from "Distributor." This change will allow all distributors, not simply transporting their own product, to be subject to the same fee schedule based on their revenue.

The license type classifications have been added to the annual fee schedule as well, under license type, to clarify and specify which license classifications correspond to each license type and fee. This is necessary to guide and streamline the process for applicants and licensees.

#### § 5016. Priority Licensing

The reference section has been revised to correct a typographical error.

#### § 5019. Excessive Concentration

Subsection (a) of this section has been amended to clarify that excessive concentration is evaluated in determining whether to grant, deny, or renew a license for a retail premises or microbusiness premises authorized to engage in retail sales. This change was necessary to provide clarity that the excessive concentration is based on the premises location, rather than license.

The reference section has been revised to correct a typographical error.

#### § 5020. Renewal of License

Subsection (a) has been revised to request documentation consistent with the change in how a license fee is determined in section 5014. The reference to maximum dollar value of the licensee's operation has been replaced with a reference licensee's gross revenue.

The section was also revised to add an additional item, subsection (d)(5), for licensees to consider on the license renewal form. Subsequent subsections have been renumbered accordingly. In addition to the information previously enumerated, licensees for renewal would also need to submit documentation of any change to any item listed in the original application under section 5002 of the division that has not been reported to the Bureau through another process pursuant to the Act or this division. This is necessary to ensure that the Bureau is apprised of any changes to information initially listed on the application so that the Bureau may determine whether certain changes affect licensure status.

Subsection (d)(6) was revised to clarify that the attestation that all information provided to the Bureau is accurate and current is found on the license renewal form. This is necessary to ensure that licensees are aware of how to provide the required attestation. Including the attestation on the renewal form streamlines the license renewal process by assuring that licensees are able to fulfill this requirement without having to complete additional paperwork.

Subsection (d)(8) has been added to require multiple-employee licensees applying for a license renewal, to attest that they currently employ, or will employ within one year of license renewal, at least one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA

Training Institute Education Center. This addition is necessary to align with Assembly Bill 2799, amending Business and Professions Code section 26051.5 to include such a requirement. This will also provide the Bureau the necessary attestations to ensure that the licensee is fit for continued licensure.

The reference section has been revised to correct a typographical error.

#### § 5021. Denial of License

The reference section has been revised to correct a typographical error.

#### § 5022. Cancellation of License

This section revises the time period that the Bureau may cancel a license, from 10 business days to 14 calendar days. This is necessary to assure that notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau regarding their closure, quitting, or abandoning the licensed premises. Additionally, the Bureau has incorporated by reference a form to provide guidance on how to provide the required notification to the Bureau in subsection (a). The inclusion of a form was necessary to guide licensees and ensure they provide sufficient information to the Bureau for consideration. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

The reference section has been revised to correct a typographical error.

#### § 5023. Business Modifications

This section includes some grammatical edits to clarify to Bureau stakeholders that business modifications to items contained in an application for licensure may only be made in certain circumstances. This is necessary to ensure that licensees are aware of the circumstances for which notifications to the Bureau or new applications for licensure are required.

In addition, subsection (a) of this section has been revised to clarify that changes to standard operating procedures may be made without providing notification to the Bureau, except at renewal. This is necessary to ensure that the Bureau is apprised of changes to the standard operating procedures at the time of license renewal. The purpose of collecting this information at the time of license renewal is to ensure that the Bureau may make an informed determination as to whether the licensee's planned operations will comply with the various licensure requirements before a license is renewed.

Subsection (c) has been amended to clarify that licensees are not assignable to another person or owner. This was necessary to avoid confusion that nontransferable also includes assignment.

Subsection (c)(1) has been amended to clarify that in addition to not being transferable, licenses are not assignable. This is necessary to ensure that licensees are aware that they cannot allow another person to operate under their license as the statute requires qualification of individuals with specific roles in the business. This section also revises the time period during which an applicant must provide a new application and fee for licensure when one or more owners of a license changes from 10 business days to 14 calendar days. This is necessary to assure that all notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau when one or more owners of a license changes. The Bureau also added language to clarify that the business can continue to operate while the Bureau reviews the new ownership information and makes a determination if one owner remains the same. This is necessary to avoid confusion about whether the business can operate while the new application is pending. The Bureau has also clarified that when a new application is required, the new ownership cannot operate the business until the application has been submitted and approved by the Bureau and all fees have been paid. This is necessary to make clear that the application process must be completed and to avoid potential confusion. The Bureau also made grammatical corrections. The proposed changes to the subsection ensures that the Bureau can effectively determine whether new owners satisfy the requirements for licensure and whether certain changes in the licensee's ownership will affect licensure status.

Subsection (d) has been revised to clarify that when there are changes in persons with a financial interest in the commercial cannabis business that do not meet the requirements for a new application, the licensee must submit certain information to the Bureau within 14 calendar days, rather than 10 business days of the change. This is necessary to assure that notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau regarding changes to a licensee's operations. It also ensures that the Bureau can timely evaluate whether certain changes to the license will affect licensure status.

Subsection (e) of this section has been added to clarify that licensees must notify the Bureau of certain changes within 14 calendar days, rather than 10 business days as originally proposed; subsequent subsections have been renumbered. This is necessary to assure that notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau regarding

changes to a licensee's operations. It also ensures that the Bureau can timely evaluate whether certain changes to the license will affect licensure status.

Subsection (i) has been added to this section to require use of a form, Notification and Request Form, BCC-LIC-027 (New 10/18), incorporated by reference for all notifications to the Bureau required under this section, unless the change can be made through the Bureau's online system. The inclusion of a form was necessary to guide licensees and ensure they provide sufficient information for the Bureau to consider. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

The remaining subsections are renumbered accordingly for consistency.

#### § 5024. Death, Incapacity, or Insolvency of a Licensee

This section revises the timeframe a licensee, or the licensee's successor in interest, must notify the Bureau about the death, incapacity, or insolvency of the owner of a license from 10 business days to 14 calendar days. This is necessary to assure that all notification timelines within the Bureau's regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau regarding the death, incapacity, or insolvency of the owner of a license. The Bureau has also incorporated by reference a form to be used for this notification, Notification and Request Form, BCC-LIC-027 (New 10/18). The inclusion of a form was necessary to guide the licensee, or the licensee's successor in interest, to ensure they provide sufficient information for the Bureau to consider. The form also streamlines the notification process by assuring that a licensee, or the licensee's successor in interest, is able to fulfill their notification requirements without having to complete additional paperwork.

#### § 5024.1. Cannabis Goods After Termination of a License

This section has been added to provide licensees clarification on what they are allowed to do with cannabis goods on the licensed premises in the event a license is terminated for any reason. The Act provides that commercial cannabis activities can only be conducted by licensees; this is necessary to ensure that licensees are aware that their ability to conduct business under a license ceases once it has been terminated. This section is necessary because it enables the Bureau to minimize the potential for illegal diversion of cannabis goods once a license has been terminated.

Subsection (a) has been added to clarify that in the event a license has been terminated, the cannabis goods in the possession of the former licensee may be destroyed. This is necessary to ensure that illegal diversion of cannabis goods is minimized once a license has been terminated.

Subsection (b) has been added to clarify that in the event a license has been terminated, a licensed distributor or licensed microbusiness authorized to engage in distribution may be authorized by the Bureau to purchase and distribute the former licensee's entire inventory stock in certain circumstances. This is necessary to clarify the limited circumstances in which cannabis goods may be transferred to another licensee once a license has been terminated. This also ensures that illegal diversion of cannabis goods to unlicensed entities is minimized once a license has been terminated.

Subsection (b)(1) has been added to clarify that a licensed distributor or licensed microbusiness authorized to engage in distribution shall, within 14 calendar days of the termination of the former licensee's license, submit a written request to the Bureau for authorization to purchase the cannabis goods from the former licensee. This section is necessary to assure that cannabis goods once held by a valid licensee may be transferred to another Bureau licensee. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of potential product transfers as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau to request to transfer product held by a former licensee. Such requests must be submitted on the new Notification and Request Form, BCC-LIC-027- (New 10/18), which is incorporated by reference. This form is necessary to assure administrative ease for both licensees and Bureau staff by requiring that all requests submitted to the Bureau be done in a uniform manner.

Subsection (b)(2) has been added to clarify that the licensed distributor or licensed microbusiness authorized to engage in distribution shall transport the cannabis goods to their premises, arrange for laboratory testing, and perform quality assurance in accordance with Chapter 2 of the Bureau's proposed regulations. This section further recognizes that if cannabis goods have already been tested and have a valid certificate of analysis under 12 months old, they are not required to undergo additional testing if they are transferred to another distributor. This subsection is necessary to clarify that licensed distributors and licensed microbusinesses that are authorized to engage in distribution are still bound to the distribution requirements found in Chapter 2 of the proposed regulations. This assures that all cannabis goods that enter the retail market meet the quality assurance and testing requirements outlined in the Act and its implementing regulations. These changes are also necessary to clarify that only microbusinesses that are authorized to engage in distribution may transport cannabis goods in accordance with this section.

#### § 5025. Premises

Subsection (c) has been amended to clarify that licensed retailers and licensed microbusinesses authorized to engage in retail sales shall only serve customers who are within the licensed premises. This change is necessary because it clarifies that only certain microbusinesses that

engage in retail activity must comply with this premises provision. This change is also necessary for consistency of terminology throughout the regulations.

Subsection (f) of this section has been clarified to state that the section shall not be interpreted to prohibit cannabis consumption on the premises of a “licensed” retailer or “licensed” microbusiness that is conducted in accordance with Business and Professions Code section 26200(g). This is necessary because it assures terminology consistency throughout the Bureau’s proposed regulations. It also clarifies that in order to avail themselves of such activities allowed under Business and Professions Code section 26200(g), such businesses need to hold an active state license.

#### § 5026. Premises Location

Subsection (c) has been amended and divided into two separate subsections, with the new subsection (d) containing the provision that the licensed premises shall not be in a location that requires persons to pass through the licensed premises in order to access a business that sells alcohol or tobacco or in a private residence. The remaining subsections are renumbered for consistency. The risk of the licensee losing control over the premises is minimized with the location restrictions identified in these subsections. These changes are necessary to clarify the restrictions on premises locations and make distinct these separate requirements.

Subsection (g) has been added to this section to clarify that nothing in this section shall be interpreted to prohibit two or more licensed premises from occupying separate portions of the same parcel of land or sharing common use areas, such as a bathroom, breakroom, hallway, or building entrance. The Bureau recognizes that some licensed operations may be located on properties with separate buildings or suites, which provide clear separation between licensed premises; many times, such buildings have shared bathrooms or hallways where no licensed activities would take place. This section is necessary to ensure that prospective licensees are aware of location considerations for licensed premises.

Subsection (h) has been added to this section to clarify that all structures included as part of a licensed premises shall be permanently affixed to the land by a method that would cause the structure to ordinarily remain affixed for an indefinite period of time. This section also clarifies what structures are not considered permanent structures, such as shipping containers that are not affixed to the land, structures that rest on wheels, or any structure that can be readily moved. The Act recognizes that it is integral for the Bureau to assure that a licensee’s premises remains consistent with the premises diagram approved by the Bureau as part of its application process. The Bureau’s review of the premises diagram assures that applicants are adhering to the requirements of the Act and its implementing regulations. As the Bureau is required to determine if the location of the premises is appropriate, it is important that a premises cannot be easily relocated or modified. This review also assures that, in a worst-case scenario, a premises cannot

be easily stolen while containing cannabis goods which could be diverted to the unregulated market. Finally, requiring premises to be permanently affixed assures that if Bureau staff conduct a site visit of the applicant's premises, the premises is where it was identified on the originally-submitted premises diagram and that it is safe to enter.

#### § 5027. Physical Modification of Premises

Subsection (c) of this section has been amended to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), to be used by licensees to request permission from the Bureau to modify the premises. This form is necessary to provide clear guidance to licensees on what information must be provided to the Bureau to request a premises modification. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

#### § 5032. Commercial Cannabis Activity

The title of this section has been changed from "Designated M and A Commercial Cannabis Activity" to "Commercial Cannabis Activity" as it has been amended to encompass more than just A-designated and M-designated license activity.

Subsection (a) has been amended to clarify that licensed retailers or licensed microbusinesses authorized to engage in retail sales may conduct commercial cannabis activity in accordance with Chapter 3. This clarification is necessary for consistency of terminology throughout the regulations. This clarification also recognizes that only certain microbusinesses may engage in retail activities. Also, "chapter" was amended to "Chapter" for consistency throughout the regulations.

Subsection (b) was added to the regulations to clarify that commercial cannabis activity can only be engaged in by licensees as required by the Act. It specifies that a licensee shall not conduct commercial cannabis activities on behalf of, at the request of, or pursuant to a contract with an unlicensed person. This change was necessary because the Bureau has received information and has observed that some licensees may be engaging in commercial cannabis activity with non-licensees. In addition, the Bureau has learned that some licensees may be conducting commercial cannabis business at the direction of non-licensees who may be considered to have an ownership or financial interest in the commercial business and should thus be reported in accordance with sections 5003 and 5004 of the regulations. Initially, the Bureau determined that it was necessary to assist licensees with determining what types of activities may or may not be allowed under the Act and its implementing regulations. The initial proposed change identified certain transactions that would generally be considered commercial cannabis activities under the Act. However, the Bureau has determined that inclusion of the clarifying example transactions is causing more

confusion. Accordingly, the Bureau has decided not to move forward with the proposed changes which identify examples of specific commercial cannabis transactions.

Subsection (c) has been renumbered from subsection (b).

Subsections (d) and (e) of this section has been amended to clarify that licensed distributors or licensed microbusinesses authorized to engage in distribution shall only transport and sell cannabis goods designated as “For Medical Use Only,” pursuant to the requirements prescribed by CDPH in regulation, to M-designated retailers or M-designated microbusinesses authorized to engage in retail. This clarification is necessary for consistency of terminology throughout the regulations. This clarification also recognizes that only certain microbusinesses may engage in distribution and/or retail activities. These subsections were also renumbered based on other amendments to the section.

#### § 5034. Significant Discrepancy in Inventory

An introductory sentence has been added to this section to clarify that a determination by a licensee on whether a discrepancy in inventory is significant shall be made in consideration of certain factors. This new introduction to the section is necessary to ensure that licensees are aware that all of the subsequent subsections are relevant to the determination of a significant discrepancy.

Subsection (a) of this section has been revised to state that a significant discrepancy in inventory occurs when there is a difference in actual inventory compared to records pertaining to inventory of 3 percent of the average monthly sales of the licensee. The Bureau received several comments expressing concern about how significant discrepancy is determined. Specifically, individuals expressed concern about over-reporting for larger businesses. The adjustment of the threshold was necessary based on information available about the costs of cannabis goods and the typical losses licensees may have in the course of business.

#### § 5035. Notification of Criminal Acts, Civil Judgements, Violations of Labor Standards, and Revocation of a Local License, Permit, or Other Authorization After Licensure

Subsection (e) has been added to this section to incorporate by reference the new Notification and Request Form, BCC-LIC-027- (New 10/18), to be used by licensees to provide the required notifications under this section. This is necessary for licensees to have clear guidance on how to provide to the Bureau the notifications required under this section. The form also streamlines the notification process by assuring that licensees are able to fulfill their notification requirements without having to complete additional paperwork.

#### § 5036. Notification of Theft, Loss, and Criminal Activity

Subsection (b) has been revised to incorporate by reference the new Notification and Request Form, BCC-LIC-027- (New 10/18), to be used by licensees to provide the required notifications under this section. This is necessary for licensees to have clear guidance on how to provide to the Bureau the notifications required under this section. The form also streamlines the notification process by assuring that licensees are able to fulfill their notification requirements without having to complete additional paperwork.

#### § 5038. Disaster Relief

Subsection (h)(4) of this section has been revised to clarify that a licensee must submit a request for temporary relief within 14 calendar days, rather than 10 business days as originally proposed. This is necessary to assure that notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau for temporary relief. Such requests must be submitted on the new Notification and Request Form, BCC-LIC-027- (New 10/18), which is incorporated by reference. This form is necessary to assure administrative ease for both licensees and Bureau staff, with all requests submitted to the Bureau done in a uniform manner. The form has also been incorporated by reference into subsection (h)(2) which requires notification to the Bureau when cannabis goods have been moved and the licensee is requesting relief from complying with specific licensing requirements.

#### Changes Made to Article 4. Posting and Advertising

##### § 5040. Advertising Placement

Subsection (a)(2) of this section has been revised to provide that licensees shall not use any depictions or images of minors or anyone under 21 years of age. Subsection (a)(3) has been revised to provide that licensees shall not use certain advertising mechanisms that are likely to be appealing to minors or anyone under 21 years of age. This is necessary to assure consistency with Business and Professions Code section 26151(b), which requires licensees to demonstrate that any advertising or marketing shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older. To remain consistent with the Act, the Bureau will change all references in this section of 18 years of age, to 21 years of age.

In addition, subsection (a)(4) has been clarified to state that licensees shall not advertise giveaways of any type of products, including non-cannabis products. This is necessary because a number of commenters sought clarity regarding the use of non-cannabis products in promotional giveaways. Advertisement of free cannabis goods is prohibited by Business and Professions Code section 26153, which does not allow for free cannabis goods as a part of business promotion. The Bureau has determined that such restrictions should be extended to non-

cannabis goods because Business and Professions Code section 26152 (e) prohibits licensees from advertising or marketing cannabis or cannabis products in a manner that is intended to encourage persons under 21 years of age to consume cannabis or cannabis products. The dissemination of promotional giveaways may appeal to underage persons.

Subsection (a)(4)(A) is also amended to clarify that “buy one product get one free” means “buy one product get one product free.” This is necessary to clarify the meaning of this provision.

Subsection (b)(3) has been added to clarify that outdoor signs, including billboards, shall not be located within a 15-mile radius of the California border or an Interstate Highway or on a State Highway which crosses the California border. The Act prohibits certain advertisements along Interstate Highways and State Highways that cross the California border but does not clarify to what extent such prohibitions take place. This change is necessary to clarify the prohibitions found in section 26152(d) of the Business and Professions Code, by allowing the placement of outdoor signs or billboards along Interstate Highways or State Highways, provided that they are located further than 15-miles from the California border. The Bureau determined that a 15-mile radius was a necessary and appropriate distance from the California border because it satisfies that the intent of section 26152(d) of the Business and Professions Code, while assuring that Bureau licensees, including those located in jurisdictions along the California border, still have an opportunity to advertise and market their commercial cannabis operations along Interstate Highways and State Highways if they satisfy the identified radius limitations.

Subsection (b) has also been amended to separate the other requirements on outdoor advertising into subsections (b)(1) and (2) for clarity.

#### § 5040.1. Marketing Cannabis Goods as Alcoholic Products

This section has been added to clarify that licensees shall not sell or transport cannabis goods that are labeled as beer, wine, liquor, spirits, or any other term that may create a misleading impression that the product is an alcoholic beverage. This addition is necessary because recently passed legislation prohibits licensees from selling, offering, or providing a cannabis product that is an alcoholic beverage and this provision will prevent consumer confusion that may be caused by use of these terms. The Bureau has determined that this prohibition should be extended to beverages labeled as “beer, wine, liquor, spirits, or any other term that may create a misleading impression that the product is an alcoholic beverage.” The Bureau is charged with ensuring public health and safety and this provision will help prevent customer confusion that may be caused by the use of these terms.

#### § 5041.1. Branded Merchandise Approval

This section has been added to provide licensees with a process to seek approval of branded merchandise. Subsection (a) indicates that if a licensee wants to sell branded merchandise that is

not specifically listed in section 5000, the licensee must obtain approval from the Bureau in writing. The Bureau has limited branded merchandise to those items that are commonly used for marketing to allow licensees to avail themselves of this type of marketing. However, the Bureau has determined that in order to ensure the health and safety of the public, and in particular the health and safety of minors is preserved, branded items must be limited in scope. Accordingly, the Bureau has provided a process in this section so that other items can be approved by the Bureau when appropriate. Further, as cannabis is still an illegal substance under federal law, the Bureau determined that restricting the items that can be used as branded merchandise is necessary.

Subsection (b) provides that to obtain approval, the licensee must submit a written request to the Bureau for approval to sell a specific item of branded merchandise and provide a photograph of the branded merchandise. It also informs licensees that requests may be emailed to the Bureau at [bcc@dca.ca.gov](mailto:bcc@dca.ca.gov) or by mail to the Bureau office. This is necessary because it provides licensees clarity on how to seek approval from the Bureau and the information that the Bureau needs to evaluate the request.

Subsection (c) informs the licensee that the merchandise must not be sold prior to receiving written approval from the Bureau for the specific item of branded merchandise. This is necessary to clarify for licensees that each item of branded merchandise requires a separate approval from the Bureau before it is sold.

#### Changes Made to Article 5. Security Measures:

##### § 5042. Limited-Access Areas

Subsection (b) has been amended to remove “individuals employed by the licensee as well as any” as the Bureau has determined that this edit is necessary for this section to be consistent with section 5000 subsection (m).

The reference section of this regulation has been amended to include a reference to Business and Professions Code section 26160. The Bureau determined this reference should also be included with this section.

##### § 5044. Video Surveillance System

This section has been amended to remove the requirement that surveillance system storage devices or the cameras be transmission control protocol capable of being accessed through the internet. The Bureau determined that this requirement was not necessary to ensure the health and safety of the public as recordings are required to be saved for 90 days, which provides the Bureau and the licensee with sufficient time to review the surveillance footage in case a crime or

unauthorized act occurs on the premises that necessitates an investigation. With the removal of this requirement, the numbering of subsections (b)-(m) have been changed.

Subsection (e) which was formerly subsection (f) has been amended to clarify licensed microbusinesses authorized to engage in retail sales are required to record point-of-sale areas. This change was necessary because the requirement to record point-of-sale areas does not apply to all microbusinesses, it only applies to microbusinesses authorized to engage in retail sales.

Subsection (h) contains an amendment to the requirement that surveillance recordings be kept for a minimum of 90 days. The Bureau has amended this section to clarify that the 90- day requirement is 90 calendar days. This was necessary to provide consistency with other sections of the regulations where the Bureau has clarified business days and calendar days.

Subsection (j) has been amended to insert “of” into “United States National Institute of Standards and Technology.” This change was necessary for accuracy. A grammatical change was also made to clarify the appropriate standards to be used.

Subsection (l)(3) amends a cross reference to subsection (i). This change was necessary due to the renumbering of the section.

#### § 5045. Security Personnel

This section has been amended to clarify that security personnel must be on-site at the licensed premises of a licensed retailer or licensed microbusiness authorized to engage in retail sales during the hours of operation. This was necessary because the Bureau has received questions requesting clarity on whether the security personnel needed to be on-site and the hours that the security personnel is required to be on-site. This change also clarifies that these requirements only apply to licensed retailers or licensed microbusinesses authorized to engage in retail sales.

#### Changes Made to Article 6. Track and Trace Requirements:

##### § 5048. Track and Trace System

Subsection (b)(2) is revised, by amending the requirement for a track and trace system account manager to sign up for and complete state mandated training, within five business days of license issuance, to five calendar days. This is necessary to keep the training requirement consistent among the licensing authorities.

Subsection (e)(2) has also been amended to incorporate by reference a form to be used by licensees to provide the required notification under this section. This is necessary for licensees to have clear guidance on how to provide to the Bureau the notification required under this section. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

### § 5049. Track and Trace Reporting

Subsection (b)(3) is revised to remove the term “sale price” and replace it with “wholesale cost.” This change is necessary to establish consistency in terms used in the Bureau’s regulations and terms used in regulations promulgated by CDTFA.

Subsection (b)(6)(A)(i) is revised, to make consistent and clarify that the premises address on the shipping manifest is the licensed premises address. This is necessary to avoid any confusion or ambiguity as to the address that needs to be included. It also assures consistency of terminology throughout the regulations.

Subsection (b)(6)(B) is revised, by adding “receipt” to the activity to be recorded in the track and trace system, to clarify and specify that the licensee receiving cannabis goods for transport, storage or inventory, shall record either acceptance or receipt in the track and trace system. This is necessary to avoid any confusion or ambiguity as to whether one type of transfer is exempt from the track and trace system, and to clarify that either type of transfer, which may have different considerations, is subject to such requirements.

Subsection (b)(6)(C) is revised, by adding “cannabis goods” to clarify that the discrepancy between type or quantity in the shipping manifest pertains to cannabis goods. This is necessary to avoid any confusion or ambiguity as to the types of goods that need to be identified in the shipping manifest.

Subsection (b)(7)(B) is revised, to clarify and specify that the licensee is required to record both destruction and disposal of cannabis goods in the track and trace system. This is necessary to ensure that both activities are properly recorded in the track and trace system, and one activity does not obviate the need to record the other activity.

Subsection (b)(7)(C) is revised, to clarify and specify that the name of the entity collecting and processing cannabis waste is the entity disposing of cannabis waste, and to reflect the removal of section 5055 of the division.

Subsection (b)(8)(B) is revised, to clarify and specify damage of cannabis goods is an event for which the licensee is required to record in the track and trace system, and to align with section 5052.1, allowing for the return of cannabis goods damaged during transportation.

The reference section was amended to identify the accurate reference sections in the Business and Professions Code.

### § 5050. Loss of Access

Section is revised by amending “access” to “connectivity,” to clarify and specify that loss of access is specific to connectivity and the licensee’s ability to connect to the track and trace system. This is also necessary to keep track and trace provisions consistent among the licensing authorities.

Subsection (b) is revised, by removing the old subsection (b), and splitting the requirement to notify the Bureau, into a new subsection (b), and adding the requirement to document the cause for the loss of connectivity, and the date and time for when connectivity was lost and restored, into subsection (c)(2). Additionally, “transfer” has been removed from the section, to allow for certain commercial cannabis activities, such as retail sale to customers. Additionally, the Bureau has incorporated by reference a form to provide guidance on how to provide the required notification. The inclusion of a form was necessary to guide licensees to ensure they provide sufficient information for the Bureau to consider. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

Subsection (c) is revised, to specify that licensees are required to enter into track and trace all commercial cannabis activity occurring during a loss of connectivity within three calendar days. The subsection has also been amended to require licensees to document the cause for the loss of connectivity and the dates and times when connectivity was lost and when it was restored. This will provide clarity to licensees on the requirements and is necessary to keep track and trace provisions consistent among the licensing authorities. It also assures that licensees update all cannabis activity in the track and trace system in a timely manner.

#### § 5051. Track and Trace System Reconciliation

Subsection (a) is revised, from requiring a track and trace system inventory reconciliation every 14 calendar days, to every 30 calendar days. This revision was necessary to provide licensees more time in which to conduct a reconciliation of inventory in the track and trace system, while assuring that reconciliation happens on a regular basis.

#### § 5052. Temporary Licenses; Licensees in Operation at Time of Licensure

Subsection (b) is revised, to correct a typographical error and clarify commercial cannabis activities, as defined under Business and Professions Code section 26001. The section has also been amended to add Section 26161 of the Business and Professions Code to the reference section, as well as to remove an unnecessary “and.” These changes were necessary for accuracy and grammatical purposes.

#### Changes Made to Article 7. Returns and Destruction:

##### § 5052.1 Acceptance of Shipments

Subsection (b) is revised, to allow for additional circumstances in which a licensee may reject a partial shipment of cannabis goods. Subsection (b)(2) has been added to allow for a licensee to reject a partial shipment of cannabis goods when those cannabis goods were damaged during transportation; subsection (b)(3) has been added to allow a licensee to reject a partial shipment of cannabis goods when it is non-compliant with labeling requirements or is expired. This is necessary to account for circumstances beyond the control of a licensee, necessitating the rejection of a cannabis good.

Subsection (c) is added to specify and clarify that these activities, including the specific reasons for rejection, must be recorded in the track and trace system. This is necessary to ensure that licensees are compliant with the track and trace system provisions, which ensures that cannabis goods are properly tracked, as required by statute.

The section has also been amended to add Section 26067 of the Business and Professions Code to the reference section. This change was necessary for accuracy.

#### § 5053. Returns Between Licensees

Subsection (a) is revised, to clarify and specify that the cannabis goods that may be returned are manufactured cannabis goods. The Bureau has determined that returns should be limited to only defective products, to protect consumer safety and ensure that returned products are destroyed appropriately to minimize diversion and ensure that cannabis waste is handled in compliance with state law related to waste. This change is necessary to ensure that non-manufactured cannabis goods are not returned and makes licensees aware of the distinction.

#### § 5054. Destruction of Cannabis Goods Prior to Disposal

The heading of this section is revised from use of the term “Cannabis Products” to “Cannabis Goods”, to more accurately reflect that the section applies to both cannabis and cannabis products as defined under the Business and Professions Code, section 26001. This is necessary to avoid any confusion or ambiguity as to what needs to be destroyed prior to disposal.

Subsection (a) amends the cross reference from section 5000(e) to 5000(g) to reflect updates and renumbering of that section. This is necessary to assure that readers may accurately reference the definition of cannabis waste.

Subsection (b) is revised, by removing the old subsection (b), and adding the new provision specifying that licensees must comply with all applicable waste management laws, including those found under Division 30 of the Public Resources, when handling cannabis waste. This is an existing provision under the proposed regulations, however, removed from the now deleted section 5055, and placed under section 5054, to make clear to licensees the requirement to comply with all applicable laws and regulations relating to waste management, as the proposed regulations have been revised to remove any requirements as to how a licensee disposes of cannabis waste.

Subsection (c) is added, to require that cannabis goods intended for disposal shall remain on the licensed premises until it has been rendered cannabis waste. This is to clarify and specify that cannabis goods that must be disposed of, due to any specified reason, such as a customer return, or failed batch, must be secured and separated from other cannabis goods on the licensed premises, with access limited to the licensee, its employees or agents, until it is destroyed and ready for disposal. This is necessary to ensure that the cannabis goods that are designated for disposal are not diverted into the illicit market.

Subsection (d) was formerly subsection (b) and is revised, to clarify and specify how to render cannabis goods into cannabis waste. This subsection is revised to provide additional clarification, that there is no requirement that vape cartridges be emptied of cannabis oil prior to disposal, provided that the vape cartridge itself is unusable at the time of disposal. The Bureau has learned that some licensees have contemplated utilizing a chipper or grinder to render such cartridges unrecognizable and unusable. However, the Bureau has determined that the vape cartridge needs to be unusable but does not need to be unrecognizable. Accordingly, this change is necessary as a precaution against unsafe handling of vape cartridges, or other like products, and to prevent diversion.

The original subsection (e) is removed as it is duplicative of the requirement to comply with all waste management laws; thus, it is not necessary to refer to a subset of those laws. The new subsection (e) contains a requirement previously contained in section 5055, to require a licensee to secure cannabis waste in a receptacle or area, when on the licensed premises. Access to the secured receptacle or area shall be limited to the licensee, its employees, or an authorized waste hauler. This is necessary to preserve the requirements for securing cannabis waste, under the revised and removed former section 5055.

The original subsection (f) is removed as it is duplicative of the requirement to comply with all waste management laws; thus, it is not necessary to refer to a subset of those laws. The new subsection (f), and contains a requirement that licensees report all cannabis waste activities, up to and including disposal, into the track and trace system. This is necessary to provide clarity to licensees on what activities related to cannabis waste must be entered into the track and trace system.

#### § 5055. Cannabis Waste Management

Section 5055, providing the ways in which a licensee may dispose of cannabis waste, such as composting or self-hauling, is removed in its entirety. Such methods are not prohibitive for licensees, but other laws and regulations on waste management will take precedence, as applicable, and require compliance by licensees. This was necessary, as the section may have been duplicative of existing laws and regulations relating to waste management.

### **Chapter 2. Distributors**

#### Changes Made to Chapter 2:

##### § 5301. Storage Services

Subsection (b) has been amended to clarify that storage services for other licensees for cannabis goods is limited to storage of cannabis goods that are packaged as they will be sold at retail. This amendment was necessary to ensure that cannabis goods are only stored after they have been packaged and thus protected from contamination.

Subsection (c) was added to require that cannabis goods stored under this section be stored in accordance with section 5302 regarding storage of batches for testing. This addition is necessary

to ensure that all cannabis goods and batches stored on a distributor's premises are stored in the same manner and readily identifiable. The addition of subsection (c) has required a renumbering of the former subsection (c), to subsection (d).

Subsection (d), formerly (c), has also been amended to clarify that the prohibition on storing live plants, does not apply to seeds. This change was necessary because the Act defines live plants to include seeds and the Bureau did not intend to prevent a distributor from storing seeds on the premises.

#### § 5302. Storage of Batches for Testing

Subsection (b)(1) has been amended to require that the label that is attached to each batch include the licensed premises address of the licensed manufacturer or licensed cultivator who provided the batch. The amendment to include the premises address is necessary for consistency with the requirements for the certificate of analysis and chain of custody that testing laboratories must generate. The addition of the word "licensed" to the words "manufacturer" and "cultivator" is necessary for consistency in terms throughout the regulations.

#### § 5303. Packaging, Labeling, and Rolling

The title of this regulation has been amended to include rolling as the Bureau allows distributors to roll pre-rolls.

Subsection (a) has been amended to provide clarity regarding how a licensed distributor may package, re-package, label, and re-label cannabis for retail sale. Specifically, subsection (a)(1) requires a distributor's packaging to meet certain requirements until January 1, 2020, including: packaging that shall protect the cannabis, including pre-rolls, from contamination; packaging that shall be tamper evident; packaging that shall be resealable if it contains more than one serving; and packaging that shall not imitate any package used for goods that are typically marketed to children. Subsection (a)(2) imposes additional requirements on a distributor's packaging starting January 1, 2020, including: packaging that shall be child-resistant until the package is first opened; packaging that is labeled with the statement, "this package is not child-resistant after opening;" and provides an exception to these requirements for immature plants and seeds. These changes were necessary for consistency between the licensing authorities regarding the packaging of cannabis goods. The changes were also necessary to provide additional clarity to licensees regarding how to satisfy the Act's packaging requirements. The Bureau determined that a transitional period assures that cannabis goods will be packaged in a child-resistant manner, while ensuring that licensees have an adequate amount of time to comply with packaging requirements.

The Bureau has amended subsection (b) to clarify that a distributor may not process cannabis but may roll pre-rolls that consist exclusively of any combination of flower, shake, leaf, or kief. This

amendment was necessary because the prior language was confusing and was not clear that the intent of the section was to allow distributors to roll pre-rolls and not simply package pre-rolls that had already been rolled. Additionally, subsection (b) specifies that pre-rolls shall be rolled prior to regulatory compliance testing. This is necessary, because the paper of a pre-roll will be consumed with the cannabis, thus the entire pre-roll must undergo regulatory compliance testing to ensure the pre-roll is safe for consumption. Subsection (b), which specified that distributors could only package, re-package, label, and re-label cannabis goods if they had a manufacturing license and were doing the activities on their manufacturing premises, has been deleted due to the changes in subsection (c) and to avoid confusion.

Subsection (c) has been amended to allow distributors to label and re-label a package containing manufactured cannabis goods with the amounts of cannabinoids and terpenoids based on laboratory testing results. The subsection previously only allowed distributors to re-label the package if the testing results were different than what was labeled. This was required because the CDPH required all manufactured products to be labeled at the manufacturer, however, the CDPH has proposed to amend their regulations to allow for labeling of cannabinoids and terpenoids to occur at the distributor premises after the distributor has received the testing results. This change was necessary because the Bureau and CDPH have determined that re-labeling was often necessary because the testing laboratory results did not match what was labeled on the package. Further, the certificate of analysis would often show that the cannabis goods had failed testing because of the label claim. This created confusion for licensees about whether a batch was able to be sold at retail. With this change, the label on the cannabis goods will match the certificate of analysis and the certificate of analysis will no longer show a batch failed for label claims on cannabinoids or terpenoids.

#### § 5303.1 Net Weight of Dried Flower

This section has been amended to provide a 3% variance for moisture loss in dried flower instead of a 2.5% variance. The Bureau has conducted additional research and determined that 3% is consistent with the variance for other types of goods established by the United States National Institute of Standards and Technology, thus a change was necessary.

The reference section has been amended to add Business and Professions Code section 26152. This was necessary for accuracy.

#### § 5304. Testing Arrangements

This section has been amended to add the term “licensed” in front of “testing laboratory.” This change was necessary for consistency of terminology used throughout the regulations. A grammatical change was also made after reference for this section.

## § 5305. Testing Sample

This section has been amended to clarify that the 90-day storage retention period for the video recordings of the sample selection is 90 calendar days. This was necessary to provide consistency with other sections of the regulations where the Bureau has clarified business days and calendar days.

### § 5305.1. Resampling

This section has been added to clarify that once a sample has been obtained from a batch for regulatory compliance testing, a licensed distributor may not arrange for or allow another licensed testing laboratory to sample or re-sample the same batch for regulatory compliance testing, unless all of the requirements of section 5705 subsection (g) have been met. This section is necessary to prevent licensees from “shopping” between testing laboratory licensees for favorable testing results. It also ensures the Bureau is kept apprised of any testing activities conducted by licensed testing laboratories.

## § 5306. Laboratory Testing Results

Subsection (a) has been revised to amend the word “sample” to “batch.” This change is necessary for clarity because while a sample from the batch is tested, it is the whole batch that passes testing. Subsection (a) has also been revised to correct a typographical error.

Subsection (b) of this section has been amended to specify that a printed copy of the certificate of analysis for regulatory compliance testing shall accompany the batch and be provided to the licensee receiving the cannabis goods. This change was necessary to ensure that a licensee receiving a batch of cannabis goods that had been tested could verify the testing results by having a copy of the certificate of analysis.

Subsection (c) has been revised to amend the word “sample” to “batch.” This change is necessary for clarity because while a sample from the batch is tested, it is the whole batch that passes testing. The subsection has also been amended to correct a typographical error.

Subsection (d) has been amended to clarify a failed batch and not failed sample may be remediated. This change is necessary for clarity because while a sample from the batch is tested, it is the whole batch that fails testing. The subsection has also been amended to include the term “licensed” in front of “manufacturer.” This change was necessary for consistency of terminology used throughout the regulations. This subsection has also been amended to include requirements for remediation of cannabis goods that fail laboratory testing. The subsection requires distributors to ensure that a remediation plan is submitted by a licensed manufacturer to the CDPH or by a licensed microbusiness authorized to engage in manufacturing to the Bureau within 30 calendar days of issuance of the certificate of analysis. The subsection would also

require the distributor to ensure that the manufacturer, or microbusiness authorized to engage in manufacturing, begins remediation within 30 calendar days of receiving approval to remediate the goods. The subsection would also require that if the distributor cannot arrange for remediation within 30 calendar days of receiving a certificate of analysis then, the cannabis goods must be destroyed immediately. These changes are necessary to ensure that cannabis goods that have failed testing are remediated in a reasonable amount of time and do not remain on the premises of the distributor or microbusiness for an extended period of time. The Bureau determined that 30 calendar days was necessary as it provides a sufficient amount of time to remediate a batch, while minimizing the potential for failed product to be diverted into the illegal market.

Lastly subsection (e) of this section has been amended to specify in accordance with the new provisions of subsection (d) that a distributor shall destroy a batch that has failed laboratory testing and cannot be remediated within 30 calendar days of issuance of the certificate of analysis. The Bureau determined that 30 calendar days was necessary as it provides a sufficient amount of time to destroy a batch that cannot be remediated, while minimizing the potential for failed product to be diverted into the illegal market.

This section amends the references section to fix a typographical error.

#### § 5307. Quality-Assurance Review

This section has been amended to clarify that the certificate of analysis is for regulatory compliance testing and to add the term “licensed” in front of “distributor” in the first paragraph of the section for consistency of terminology used throughout the regulations. This section has also been amended to replace the term “sample” with “batch.” This change is necessary for clarity because while a sample from the batch is tested, it is the whole batch that passes testing and is found to meet specifications required by law. This section has also been amended to clarify that cannabis goods that are being transported to retailers or microbusinesses authorized to engage in retail sales shall be packaged as they will be sold at retail. This inclusion was necessary for consistency with other regulatory sections and to provide clarity to licensees. This section has also been amended to clarify that in transporting cannabis goods to a retailer or microbusiness, the microbusiness must be one that is authorized to engage in retail. This change is necessary for clarity and consistency with terms used throughout the regulations.

Subsection (a) has been amended to specify the certificate of analysis is for regulatory compliance testing rather than referencing section 5714. The subsection has also been amended to add the term “licensed” before testing laboratory. These changes are necessary for clarity and consistency in terms used throughout the regulations. The section has also been amended to clarify that the cannabis goods may be transported to another distributor once the certificate of analysis has been received. This addition is also necessary to align with approved and filed

Senate Bill 311, amending Business and Professions Code section 26110 to enable licensed distributor to licensed distributor transfers.

Subsection (b) is a new subsection that has been added to require that in order to transport cannabis goods to another licensee with the certificate of analysis, the certificate of analysis must be less than 12 months old. This is necessary to place an end date on the time frame during which cannabis goods can be transported from licensed distributor to licensed distributor without undergoing new testing. The Bureau determined that 12 months is necessary because it assures that the results found on the certificate of analysis are accurate.

Former subsection (b) is now subsection (c) has been amended to clarify the quality assurance duties of a licensed distributor or licensed microbusiness authorized to engage in distribution. Specifically, this section provides that if the cannabis goods are labeled with the content for cannabinoids, terpenoids, Total THC, and/or Total CBD prior to receiving the certificate of analysis for regulatory compliance testing, the licensed distributor shall ensure that the labeled amounts are accurate in accordance with section 5307.1 of the Bureau's proposed regulations. If the cannabis goods are not labeled with the content for cannabinoids, terpenoids, Total THC, and/or Total CBD prior to receiving the certificate of analysis for regulatory compliance testing, the licensed distributor shall label the cannabis goods with the amounts listed on the certificate of analysis pursuant to section 5303 of the Bureau's proposed regulations. These changes were necessary to provide additional clarity regarding the requirements of a licensed distributor or licensed microbusiness authorized to engage in distribution when checking the labels of cannabis goods. These changes were also necessary for consistency with the CDPH's regulations.

Subsection (e) is a new section that specifies that cannabis goods cannot be transported if they have exceeded their best-by, sell-by, or expiration date if one is provided. This is necessary to ensure the safety of consumers by prohibiting expired cannabis goods from being transported to retail.

Subsection (d) is now subsection (f) and has been amended to specify that licensed distributors shall use scales as required by the Business and Professions Code and not the Act. The Bureau determined that the citation to the Act was incorrect and that scales are governed under Division 5 of the Business and Professions Code.

Subsection (g) has been amended to state that a licensed distributor or licensed microbusiness authorized to engage in distribution shall ensure that all events prior to the receipt of the certificate of analysis for regulatory compliance testing have been entered into the track and trace system. This change is necessary to assure that licensed distributors or licensed microbusinesses authorized to engage in distribution confirm that all transactions are accurately recorded into the track and trace system once they receive the certificate of analysis for regulatory compliance

testing. It also assures that the regulatory agencies are apprised of accurate data related to the movement of cannabis goods within the track and trace system.

#### § 5307.1. Quality-Assurance Review for Labeling Cannabinoid Content

This section is a new section that is being proposed to provide variances for cannabinoid and terpenoid content from the labeled amount and the actual amount. This is necessary because the cannabinoid and terpenoid content is based on a sample from a batch. Each individual product of the batch is not tested, so there may be a variance in the labeled cannabinoid and terpenoid content and the actual content. The section allows for a plus or minus 10% variance. Subsection (c) provides the formula to calculate the difference in percent which is necessary to ensure licensees are calculating the difference in percent accurately and consistently.

Subsection (d) references the definitions for Total THC and Total CBD which are contained in chapter 6. This is necessary because the terms are used here but defined in chapter 6 as they primarily apply to the testing laboratory regulations and need to be included there for the convenience of the testing laboratories. Providing a cross-reference here will provide clear guidance to licensees on where to find these definitions.

#### § 5307.2. Licensed Distributor to Licensed Distributor Transfers

This section is a new section that has been added to clarify that cannabis goods, packaged as they will be sold at retail, that have undergone and passed regulatory compliance testing and have a certificate of analysis may be transferred to another licensed distributor. The section specifies that cannabis goods that have not been transported to retail within 12 months of the date on the certificate of analysis must be destroyed or retested. This is necessary to ensure that the certificate of analysis accurately reflects the cannabis goods when they are transferred to retail. This addition is also necessary to align with approved and filed Senate Bill 311, amending Business and Professions Code section 26110 to enable licensed distributor to licensed distributor transfers of cannabis goods fit for sale.

#### § 5308 Insurance Requirements

Subsection (e) of this section has been amended to allow for notification of a lapse in insurance within 14 calendar days instead of 10. This change is necessary for consistency with other notification requirements contained throughout the regulations. The subsection has also been amended to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), to be used by licensees to provide the notification to the Bureau that is required under this section. The form streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

### § 5309 Inventory Accounting

This section has been revised to no longer require licensed distributors to perform inventory reconciliation every 14 days, therefore the title of the section has been amended to “Inventory Accounting” rather than “Inventory Reconciliation.” This section now requires a licensed distributor to be able to account for all inventory and provide that information to the Bureau upon request. The section further specifies that a licensed distributor shall be able to identify the status of the all batches of cannabis goods that are on the licensed premises and specifies that the status shall include: that the batch is held in storage for another licensee; that the batch is awaiting sampling, that the batch has been sampled and is awaiting testing results; that the batch has passed testing; that the batch has failed testing and is awaiting approval for remediation, that the batch has failed testing and is awaiting destruction; and the batch is stored or held for any other lawful purpose under the Act or the regulations. This change was necessary to be consistent with the track and trace system requirements and to ensure that licensees were not being required to duplicate their accounting of inventory under this regulation and the track and trace requirements.

### § 5310. Records

Subsection (f) of this section has been amended to require records related to disposal of cannabis goods. The regulation already required records related to destruction, but disposal was not specifically listed despite the Bureau’s intent that disposal records would be included with destruction. This change was necessary to provide clarity to licensed distributors on which records they must maintain.

Subsection (h) was amended to correct a grammatical error.

### § 5311. Requirements for the Transportation of Cannabis Goods

Subsection (a) of this section has been revised to clarify that all vehicles used for transportation shall be owned or leased, in accordance with the Vehicle Code, by the licensee. The Bureau already required this under section 5312, but there was confusion over the requirement including what it means to own or lease a vehicle. This section is necessary for consistency and clarity so that licensees know that they are required to own or lease the vehicles and that what constitutes ownership or lease of a vehicle is governed by the Vehicle Code.

Subsection (d) was amended to correct a grammatical error.

Subsection (f) has been amended to clarify that cannabis goods shall be in a fully enclosed box, container, or cage, and that no portion of the box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. This change was necessary to address questions the

Bureau has received regarding what qualifies as a box, container, or cage by providing clarity on how a licensee may transport cannabis goods within a distribution vehicle.

Subsection (n) has been amended to correct the citation to the subsections. The Bureau determined upon review that it had made an error in the subsections it cited to, thus a change was necessary.

Subsection (o) has been added to this section to specify that notwithstanding the prohibition on certain means of transportation, cannabis goods may be transported via waterway to licensees located on Catalina Island. This amendment is necessary because there is no way to transport to Catalina Island by motor vehicle.

#### § 5312. Required Transport Vehicle Information

This section requires applicants and licensees to provide proof that the licensed distributor owns or leases the vehicles used for transportation. The Bureau has received a number of inquiries regarding this requirement and has determined that the current language is confusing, and applicants and licensees are unsure of what they need to provide as evidence, therefore an amendment was necessary. Subsection (a)(1) has been amended to replace the phrase “owns or holds a valid lease” with “is the registered owner under the Vehicle Code.” This will now clarify that licensed distributors may provide a copy of their vehicle registration as proof of ownership or lease.

Subsection (c) has also been amended to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), for licensees to use in providing to the Bureau the required notifications of this section. The form streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

#### § 5315. Distributor Transport Only License

Subsection (a) of proposed regulation has been amended to add the term “authorized to engage in retail sales” after “licensed microbusiness.” This is necessary because the distributor transport only license requirements in this section only apply to microbusinesses that are authorized to engage in such activities. It is also necessary for consistency with terminology used throughout the regulations.

Subsection (g) has been amended to add the term “licensed” in front of manufacturing. This was necessary for consistency of terminology used throughout the regulations. Subsection (g) has also been amended to clarify that the citation to Article 5 is Chapter 1, Article 5. This change was necessary for accuracy and clarity.

## **Chapter 3. Retailers**

### Changes Made to Chapter 3:

#### § 5400. Access to Retailer Premises

Revised subsection (b) to clarify that individuals who are at least 21 years old may enter the premises of a licensed retailer that has a medicinal designation. Prior to the proposed amendment, the language of the regulation could be read to indicate that only persons who were 18 or older and were in possession of a valid physician's recommendation are authorized to access the licensed premises of a medicinal retailer. This restriction may have been interpreted to prohibit any person who did not have a physician's recommendation for medicinal cannabis from accessing the premises of a medicinal retailer regardless of their age. This would have prevented employees, vendors, and contractors who did not possess a physician's recommendation from accessing the premises. This amendment is necessary to clarify that medicinally designated retailers may grant access to the premises to individuals who are at least 21 years old, in compliance with the provisions of Business and Professions Code section 26140. Additional grammatical changes have been made to the section for accuracy and clarity.

Revised subsection (c) to make grammatical corrections and to specify that the premises referred to in the regulation is the retailer's premises.

#### § 5402 Customer Access to the Retail Area

Subsection (c) was amended to clarify that all sale of cannabis goods must occur in the retail area except for cannabis goods sold through delivery, a drive-in, or drive-through window. This amendment was necessary to specify the limited circumstances where authorized sales of cannabis goods may occur outside the retail area and to be consistent with section 5025 subsection (g).

#### § 5403.1 Requirements While Not Open for Business

This section was amended to correct a grammatical error. Subsection (a) previously stated that the premises is required to use nonresidential door locks as defined in section 5046 and the Bureau meant as required by section 5046.

#### § 5406. Cannabis Goods for Sale

Subsection (a) has been revised to clarify that licensed retailers may only sell cannabis goods that were received from a licensed distributor or a licensed microbusiness that is authorized to act as a distributor. The additional clarification is necessary to prevent readers from mistakenly interpreting the section to allow retailers to accept cannabis goods directly from any

microbusiness, instead of only from microbusinesses that are authorized to act as distributors. This change was also necessary to reflect consistency of terminology throughout the regulations.

Subsection (b) has been amended by replacing the phrase “expiration or sell-by date” with “best-by, sell-by, or expiration date.” This change was necessary for consistency of terminology used in the regulations.

Subsection (c) has been revised to remove the word “and” which was repeated in error.

Additionally, subsection (e) has been added to specify that a licensed retailer shall not make any cannabis goods available for sale or delivery unless the batch number is labeled on the package of cannabis goods and matches the batch number on the corresponding certificate of analysis for regulatory compliance testing. These changes are necessary to ensure that cannabis goods can be matched to the corresponding certificate of analysis. Former subsection (e) is now subsection (f) and former subsection (f) is now subsection (g).

The reference section has been revised to correct a typographical error.

#### § 5407. Sale of Non-Cannabis Goods

The title of the regulation section has been changed to remove the words “on premises.” This change was necessary to clarify that the requirements applies to all sales, including sales by delivery, which do not occur on the premises.

The section was amended to clarify that licensed retailers may provide customers with promotional materials rather than sell promotional materials. Prior to the proposed amendment, the language of the regulation indicated that retailers may sell cannabis goods, cannabis accessories, branded merchandise, and promotional materials. In many instances, promotional materials such as flyers are not sold to customers. The proposed amendment is necessary to clarify that retailers may provide customers with promotional materials free of cost instead of indicating that a retailer may only sell promotional materials.

The reference section has also been amended to add sections 26151 and 26152 of the Business and Professions Code. This is necessary for accuracy.

#### § 5408. Sale of Live Plants and Seeds

Subsection (a)(2) has been amended to clarify that the microbusiness cited to in this section must be a microbusiness authorized to engage in cultivation. This is necessary for clarity and consistency with terms used throughout the regulations.

#### § 5409. Daily Limits

Subsection (a) has been revised to change the term “concentrated cannabis” to “cannabis concentrate.” This is necessary for consistency with the Business and Professions Code.

This section adds subsection (e), which clarifies that the retailer is responsible for determining the amount of cannabis concentrates sold to customers in any form. In some instances, the amount of cannabis concentrates used in a manufactured product is not listed on the packaging. This has led to confusion regarding the application of this section. This new subsection clarifies that the retailer is the party responsible for identifying the total amount of cannabis goods sold to customers and ensuring that customers do not exceed the daily purchase limits set by the section, whether or not the amount of cannabis concentrates are listed on the product's packaging. A retailer may use any methods available for determining that the amount of cannabis goods sold to a customer does not exceed the daily limits, including obtaining information from the manufacturer.

#### § 5410. Customer Return of Cannabis Goods

Subsection (e) has been deleted and replaced with a new section which clarifies that defective manufactured cannabis products returned by customers to a licensed retailer may be returned to the licensee the goods were obtained from pursuant to section 5053. Prior to this proposed amendment, the language of the regulation appeared to indicate that all cannabis goods returned to a retailer had to be destroyed. However, section 5053 allows licensees to make returns of cannabis goods to other licensees so long as the cannabis good is found to be a defective manufactured cannabis good. In most instances, a retailer is not aware that a manufactured cannabis good is defective until it is sold to a customer and subsequently returned. This amendment is necessary to clarify that in these cases, the retailer is authorized to return the defective product to the distributor the product was obtained from.

The reference section has been revised to correct a typographical error.

#### § 5411. Free Cannabis Goods

Subsection (b) has been revised to correct a grammatical error.

Subsection (c) has been amended to remove equality and replace it with equity. This is necessary because equity was the intended term.

#### § 5412. Prohibition on Packaging and Labeling by a Retailer

Subsection (c) has been revised to remove duplicative language. The language in subsection (c) prior to this amendment indicated that a licensee who holds another commercial cannabis license may engage in packaging and labeling of cannabis goods under that other license. The Bureau has determined that this language is duplicative and not necessary. The new language in subsection (c) recognizes that it is important for licensed retailers to be able to effectively track their inventory of cannabis goods. An effective way of doing this is by placing barcodes on each product that allow the retailer to track the product. This amendment is necessary to clarify that the prohibition on labeling would not prevent a retailer from using barcodes or similar stickers on the packaging of cannabis goods for the purposes of inventory tracking.

### § 5413. Exit Packaging

The title of this section has been changed from “Exit Packaging” to “Cannabis Goods Packaging and Exit Packaging” as this section now address both types of packaging. This section has been revised to add additional requirements for cannabis goods packaging and exit packaging.

During the 15-day comment period subsection (a) was added to provide the requirements for cannabis goods packaging on all cannabis goods sold by a licensed retailer. Subsection (a)(1) required that all cannabis goods sold prior to January 1, 2020 be tamper-evident. The subsection also provided that cannabis goods packaging is not required to be resealable or child resistant. The Bureau determined that this clarification actually created more confusion regarding packaging and therefore the Bureau withdrew the subsection (a)(1). The Act already requires cannabis goods to be in tamper-evident, child resistant, resealable packaging prior to sale or delivery; thus, either the packaging itself or the exit package must meet these criteria until 2020. Subsection (a)(2) was renumbered to subsection (b) following the 15-day comment period and clarifies that beginning January 1, 2020, all cannabis goods sold by a licensed retailer must be packaged in resealable, tamper-evident, child resistant packaging. This is necessary to comply with the packaging requirements in Business and Professions Code section 26120 while providing licensees with time to comply with packaging requirements.

Subsection (b) was renumbered to subsection (c) following the 15-day comment period and has been added to provide the requirements for exit packaging. For the 15-day comment period, the Bureau had subsection (b)(1) requiring that all cannabis goods sold prior to January 1, 2020 be placed in resealable, child-resistant, opaque exit packaging and subsection (b)(2) clarifying that beginning January 1, 2020, all cannabis goods sold by a licensed retailer be placed in opaque exit packaging. The subsection also clarified that beginning January 1, 2020, exit packaging is not required to be resealable or child-resistant. However, following the 15-day comment period, the Bureau determined that the section caused more confusion rather than providing clarity. Thus, former subsections (b)(1) and (b)(2) have been withdrawn. Subsection (c) now provides the requirement that cannabis goods shall be placed in an opaque exit package prior to leaving the retail premises. This is necessary to comply with the packaging requirements in Business and Professions Code section 26120.

Subsection (d), formerly subsection (c) during the 15-day comment period, has been added to clarify that immature plants and seeds, which are not required to go through quality assurance or laboratory testing pursuant to Business and Professions Code section 26110, are not required to be in resealable, tamper-evident, child-resistant packaging. This is necessary as the Bureau has received inquiries about what the packaging requirements are for these items. The Bureau has determined that these items do not need to be in resealable, tamper-evident, child-resistant packaging.

#### § 5414. Non-Storefront Retailer

Subsection (a) has been revised to remove the word “cannabis” when describing the type of sales that a non-storefront retailer may engage in. By removing the word cannabis, the regulation no longer inadvertently prohibits non-storefront retailers from also engaging in the sale of cannabis accessories. This amendment is necessary to clarify that non-storefront retailers may sell any products that a storefront retailer is permitted to sell.

#### § 5415. Delivery Employees

Subsection (d) has been revised to clarify that the process of delivery ends when the delivery employee returns to the retail premises even if a delivery attempt is unsuccessful and the attempted delivery is never completed. Prior to the proposed amendment, the language of the regulation indicated that the process of delivery ends after the completion of the delivery of cannabis goods. However, the regulation did not address instances where delivery is attempted and fails for some reason. This amendment is necessary to clarify that the process of delivery would still end after the delivery employee returns to the retail premises after a failed delivery attempt. The section has also been amended to add the term “licensed” in front of retailer, this is necessary for consistency of terminology throughout the regulations.

Subsection (f) has been revised to simplify the requirement for delivery employees. Rather than providing specific requirements in this subsection, the subsection now references section 5413 of this division. All sales of cannabis goods through delivery are required to comply with the requirements of section 5413. This revision is necessary to clarify that the requirements are the same for cannabis goods sold to customers at the retail premises and cannabis goods delivered to customers.

#### § 5415.1 Deliveries Facilitated by Technology Platforms

Section 5415.1 is a new section that has been added to clarify the use of technology platforms by licensed retailers in the sale and delivery of cannabis goods. Business and Professions Code section 26001 defines delivery as the commercial transfer of commercial cannabis goods to a customer and includes the use by a licensed retailer of any technology platform. This section is added to clarify the use of technology platforms, as defined under the Act. The Bureau has found that a number of Bureau licensees engage in delivery services that are facilitated by technology platforms. However, use of such platforms has created confusion in customers as to whether a Bureau licensee is conducting the commercial cannabis activity. Moreover, some technology platforms may create the impression that they hold a Bureau license. Accordingly, the Bureau determined it was necessary to add section 5415.1 to clarify the responsibilities of Bureau licensees who engage in retail activities by using a technology platform to facilitate delivery activities.

Subsection (a) states that a licensed retailer or licensed microbusiness authorized to conduct retail activities shall not sell or transfer any cannabis goods through the use of an unlicensed third party, intermediary business, broker, or any other business or entity. This is necessary to clarify the statutory prohibition on licensed retailers using unlicensed third parties to deliver cannabis goods to customers. Business and Professions Code sections 26070(c) and 26090(a) allow only licensed retailers or licensed microbusinesses authorized to conduct retail activities to make deliveries and requires that any driver of a vehicle delivering cannabis goods be directly employed by the licensee authorized to deliver cannabis goods.

Subsection (b) clarifies that the use of a technology platform is allowed, with certain restrictions. Subsection (b)(1) states that licensed retailers may not allow the technology platform service provider to deliver cannabis goods on behalf of the licensed retailer. This is necessary to provide clear guidance to licensed retailers on the restrictions set in the Act that prohibit a licensed retailer from allowing another entity to deliver cannabis goods on its behalf. Subsection (b)(2), would prohibit a licensed retailer from sharing profits from cannabis goods sales with the technology platform service provider. This is necessary to ensure that the technology platform service provider is not engaging in unlicensed commercial cannabis activity by attempting to operate under the retailer's license through a profit-sharing agreement.

Subsection (b)(3) restricts the licensed retailer or licensed microbusiness authorized to conduct retail activities from advertising with the technology platform service provider, outside of the technology platform itself. This provision is necessary to align with advertising and marketing requirements under Business and Professions Code section 26150 et seq. The statutory provisions on advertising and marketing of cannabis goods prohibit a licensee from advertising or marketing in a manner that would be false, untrue, or would tend to create a misleading impression. The section would prevent any misleading impression that cannabis goods are sold by or purchased directly from a technology platform.

Subsection (b)(4) requires that licensees using technology platforms for the sale and delivery of cannabis goods ensure that customers accessing the technology platform receive specific information about the licensee selling the cannabis goods. Specifically, this subsection requires licensees to ensure that their legal business name, and license number, are associated with the cannabis goods displayed for sale on the technology platform. The subsection further specifies that the information must be available to the customer prior to the order being placed. Subsection (b)(5) requires that the legal business name and license number of the licensed retailer or licensed microbusiness authorized to conduct retail activities selling the cannabis goods, be included on the sales invoice or receipt, including any receipts provided to the customer. Subsection (b)(6) specifies and clarifies that licensees must comply with all other delivery, marketing, and advertising requirements.

This section is necessary to clarify that licensees, who are able to satisfy certain requirements to ensure customers know which Bureau licensee they are conducting business with, may contract with a service that provides a technology platform to facilitate the sale and delivery of cannabis goods. The proposed requirements not only ensure that the technology platforms used by licensees are not engaging in unlicensed commercial cannabis activity, but they ensure public health and safety by assuring that members of the public can readily identify the Bureau licensees that they are purchasing cannabis goods from.

#### § 5416. Delivery to Physical Address

Subsection (d) of this section has been amended to clarify that a delivery employee may deliver to any jurisdiction within the State of California provided that such delivery is conducted in compliance with all delivery provisions of the regulations. This change was necessary for clarity as the Bureau received feedback that this section could be read that all of the delivery rules may not apply.

Subsection (e) was added to include a restriction on delivering cannabis goods to a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center. This amendment is necessary to further prevent the exposure of minors to cannabis by prohibiting deliveries to locations that commercial cannabis businesses are required to maintain specific distance from under Business and Professions code section 26054.

#### § 5417. Delivery Vehicle Requirements

Subsection (a) of this section was revised to clarify that vehicles used in delivery shall not have any markings or other indications that cannabis is being carried in the vehicle. This new restriction is intended to reduce the risk of the delivery vehicle becoming a target of theft or other crime. Subsection (a) was also amended to add the term “licensed” in front of retailer, this is necessary for consistency of terminology throughout the regulations. Subsection (b) was amended to add the term “licensed” in front of retailer, this is necessary for consistency of terminology throughout the regulations. Subsection (b) has also been amended to clarify that cannabis goods must be locked in a fully enclosed box, container, or cage. This change is necessary to provide clarity to licensees on how cannabis goods must be secured during delivery. Subsection (b) has also been amended to clarify that no portion of the box, container, or cage used to hold cannabis goods during delivery may be comprised of the body of the vehicle or trailer. This amendment is necessary to clarify potential confusion regarding the specific requirements of the box, container, or cage and serves to enhance public health and safety by limiting the potential for theft or other crimes while a delivery driver engages in the delivery process.

Subsection (c) was revised to clarify that any cannabis goods left in an unattended delivery vehicle shall be stored in a secure container as required in subsection (b) of the section. Prior to this proposed amendment, the regulations did not specify the requirements for cannabis goods left in an unattended delivery vehicle. This amendment is necessary to reduce the risk of theft of

the cannabis goods or other crime by ensuring that the cannabis goods are secured in the vehicle when left unattended. Subsection (c) was also amended to add the term “licensed” in front of retailer, this is necessary for consistency of terminology throughout the regulations

Subsection (d) was revised to clarify that the Global Positioning (GPS) device required to be used on all delivery vehicles be capable of maintaining a geographic record of all locations visited by the delivery vehicle while engaging in delivery. This is necessary to allow the Bureau and other law enforcement to verify that the delivery employee only was following all requirements while conducting deliveries. For example, the Bureau would be able to determine whether the delivery employee traveled out of state or performed a delivery of cannabis goods that was not properly documented by reviewing the delivery vehicle’s travel history. The Bureau has determined that 90 days is a reasonable amount of time for the licensee to maintain this information as it is consistent with the time video surveillance footage must be obtained.

#### § 5418. Cannabis Goods During Delivery

This section has been amended throughout by adding the term “licensed” in front of retailer throughout the section, this is necessary for consistency of terminology throughout the regulations.

Subsection (a) of this section has been amended to specify that the value of cannabis goods carried in the vehicle cannot exceed \$5,000 at any time. Further, the subsection specifies that the value of cannabis goods carried in the delivery vehicle for which a delivery order was not received and processed by the licensed retailer prior to the delivery employee departing from the licensed premises may not exceed \$3,000. This change is necessary to ensure that delivery employees are not driving around with a large amount of cannabis goods for which there are no orders, while still allowing retailers to have the flexibility of fulfilling orders while the delivery employee is out on the road.

Subsection (b) is a new subsection that specifies that the value of cannabis goods shall be determined using the current retail price of all cannabis goods carried by, or within the delivery vehicle. This requirement was removed from subsection (a) and separated into a new subsection. This is necessary to provide licensees with direction on how to calculate the value of cannabis goods that may be carried during delivery. Former subsection (b) is now subsection (c) and former subsection (c) is now subsection (d).

Former subsections (d) and (e) are now (e) and (f) respectively and have been revised to clarify that the delivery inventory ledger and the delivery log may be maintained electronically. Prior to the proposed amendment, the language did not specify whether these documents must be maintained in hard copy or electronic form. Subsection (e) has also been amended to clarify that the inventory ledger must clearly identify any cannabis goods carried by the delivery employee that are part of an order that was received and processed prior to the delivery employee leaving the retail premises. This clarification will better allow the Bureau to enforce the requirements of subsection (a) of this section.

Former subsections (f) through (i) are now subsections (g) and (j) respectively.

This section has also been amended to add Section 26160 of the Business and Professions Code to the references. This is necessary for accuracy.

#### § 5419. Cannabis Consumption During Delivery

The term “licensed” has been added in front of retailer. This is necessary for consistency of terminology throughout the regulations.

#### § 5420. Delivery Request Receipt

This section has been amended by adding the term “licensed” in front of retailer throughout the section, this is necessary for consistency of terminology throughout the regulations.

#### § 5421. Delivery Route

This section has been amended by adding the term “licensed” in front of retailer throughout the section, this is necessary for consistency of terminology throughout the regulations.

#### § 5422. Receiving Shipments of Inventory

Subsection (a) of this section has been amended to clarify that if a microbusiness is distributing cannabis goods to the retailer, the microbusiness must be one that is authorized to engage in distribution. This change is necessary for consistency of terminology used throughout the regulations. It also ensures that licensees are aware that only certain microbusinesses may engage in distribution activities.

Subsection (d) has been added which allows a retailer who only has one entry way to be exempt from the requirements of subsection (c) of this section if the retailer first obtains explicit authorization from the local jurisdiction. The Bureau recognizes that some local jurisdictions have approved premises with only one entryway onto their licensed premises. This proposed amendment is necessary to allow an alternate option for retailers who may have difficulty complying with the requirements of subsection (c) of this section due to the physical layout of a premises that has been approved by the local jurisdiction.

This section has also been amended to add Section 26012 to the reference section. This change is necessary for accuracy.

#### § 5424. Inventory Reconciliation

Subsection (a) has been revised to remove the inventory reconciliation requirement from the section. This section now requires a retailer to be able to account for all inventory and provide that information to the Bureau upon request. However, the inventory reconciliation requirement has not been removed completely. Licensed retailers are still required to conduct regular inventory reconciliation every 30 days under section 5051.

### § 5425. Record of Sales

This section has been removed from the proposed regulation. This removal is necessary due to the changes made to the sections related to sales recordkeeping that have rendered this section unnecessary.

## **Chapter 4. Microbusiness**

### Changes Made to Chapter 4:

#### § 5500. Microbusiness

Subsection (a) now allows for a Type N manufacturing license, which was created in regulation by the CDPH, to qualify as one of the activities for a microbusiness. This is necessary as the Bureau received comments that many jurisdictions will not allow businesses to engage in full Level 1 manufacturing in certain areas or in combination with certain cannabis activities but will allow for Type N license infusion only manufacturing activities. This is causing a barrier to entry for small businesses that have previously been in the industry or that want to enter the industry. The Bureau has determined that Type N activities are in fact manufacturing activities that are allowable under the Level 1 activity a microbusiness may engage in.

A cross reference has been changed for accuracy and grammatical correction has been made in this section as well.

The section has also been amended to add sections 26050 and 26051.5 of the Business and Professions Code to the reference section. This change is necessary for the accuracy.

#### § 5502. Cultivation Plan Requirements

This section includes certain non-substantive grammatical revisions, including the removal of semi-colons and addition of periods to provide added clarity to readers.

Subsection (b) has been amended to include a statement that for the purposes of cultivation activities of a microbusiness, the definition of immature plants will be as it is defined by the CDFA in regulation. This is necessary to ensure that the definition used for cultivation activities is consistent amongst the state licensing authorities.

Subsection (e) has been removed from the proposed regulation. This removal is necessary due to the changes made to the sections related to cannabis waste that have rendered this section unnecessary.

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## **LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.

## **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JULY 13, 2018 THROUGH AUGUST 27, 2018**

Written and oral comments were received during the 45-day comment period on the proposed regulations. For each comment submission the Bureau assigned a number. The number would apply to the whole of the submission whether it was an email, letter, or oral testimony. When a comment submission contained multiple comments, the Bureau assigned a sub number to the comment submission number which created the comment number. In the Bureau's summary and response to comments the comment numbers are included in the chart with the page numbers of the comments in parenthesis and the Bureau's response. In some cases, a comment number may appear in multiple responses where multiple responses were warranted. The Bureau's summary and response to relevant comments received are contained in Appendix A. The Bureau's summary and response to irrelevant comments received are contained in Appendix B. Within the copies of the 45-day comments, wholly relevant comment submissions or comment submissions with both relevant and irrelevant comments are included in the pages of relevant comments. Those comment submissions that are wholly irrelevant are included in the pages of irrelevant comments. All 45-day comment submission copies are numbered sequentially.

## **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE PERIOD THE MODIFIED TEXT WAS AVAILABLE TO THE PUBLIC**

Written comments were received during the 15-day comment period on modifications to the proposed regulations. For each comment submission the Bureau assigned a number. The number would apply to the whole of the submission whether it was an email, letter, or oral testimony. When a comment submission contained multiple comments, the Bureau assigned a sub number to the comment submission number which created the comment number. In the Bureau's summary and response to comments the comment numbers are included in the chart with the page numbers of the comments in parenthesis and the Bureau's response. In some cases, a comment number may appear in multiple responses where multiple responses were warranted. The Bureau's summary and response to relevant comments received are contained in Appendix C. The Bureau's summary and response to irrelevant comments received are contained in Appendix D. Within the copies of the 15-day comments, wholly relevant comment submissions or comment submissions with both relevant and irrelevant comments are included in the pages of relevant comments. Those comment submissions that are wholly irrelevant are included in the pages of irrelevant comments. All 15-day comment submission copies are numbered sequentially.

## ALTERNATIVES DETERMINATION

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

In considering the proposed regulations, the Bureau considered a lower-cost alternative and a higher-security alternative. The proposed regulations impose a 50-pound maximum batch size for testing. The proposed regulations also require the use of an enclosed vehicle for deliveries of cannabis and allow for one retailer employee to make deliveries on their own. Additionally, the proposed regulations require that licensees maintain security cameras in specific locations with at least a 1280 x 720 resolution at a minimum of 15 frames per second. The proposed regulations also require that video footage be stored for at least 90 days. The proposed regulations require that cannabis goods be rendered unrecognizable and unusable prior to disposal and that cannabis waste be disposed of by licensed waste haulers. The proposed regulations require that retailers only sell cannabis goods between the hours of 6 a.m. and 10 p.m.

The lower cost alternative would remove the maximum batch size for testing. The lower cost alternative would also allow for delivery using a bicycle, motorcycle, or scooter in addition to enclosed vehicles. Like the proposed regulations, the lower cost alternative would allow for one employee to make deliveries by themselves. The lower cost alternative does not have any security-video requirements. The lower cost alternatives have no waste storage and disposal requirements. The lower cost alternative also does not restrict the hours that a retailer may sell cannabis goods.

The higher-security alternative would lower the maximum batch testing size to 10 pounds. The higher-security alternative would also require the use of enclosed vehicles for delivery but would require that at least 2 employees make deliveries together. Additionally, the higher security alternative would require security cameras to be placed at specific locations. The higher-security alternative would require that the cameras record at least at a resolution of 1280 x 1024 at a minimum of 20 frames per second and that the footage be stored for at least 90 days. The higher-security alternative includes more stringent waste cannabis waste disposal requirements. The higher-security alternative also requires that prior to disposal, cannabis waste be disguised by blending with solid waste or soil, the waste be weighed and labeled with a bill of lading, and quarantined in a dedicated area on camera for 72 hours prior to disposal. Like the proposed regulations, the higher-security alternative requires that retailers only sell cannabis goods between the hours of 6 a.m. and 10 p.m.

The proposed regulations are expected to increase the total compliance cost by \$408 per pound and are expected to result in an increase in the cannabis industry's revenue by \$695 million with an increase in quantity sold by 33,765 pounds when compared to the non-regulated baseline. The regulations are expected to result in a total increase in cost of \$6 billion and generate a total benefit of \$6.4 billion. The lower-cost alternative is expected to increase compliance costs by \$350 per pound, or \$58 per pound less than the proposed regulations, and expected to result in an increase in the cannabis industry's revenue by \$665 million with an increase in quantity sold by 43,755 pounds when compared to the non-regulated baseline. The lower-cost alternative is expected to result in a total increase in cost of \$2.8 billion and generate a total benefit of \$3 billion. The higher-security alternative is expected to increase compliance costs by \$744 per pound or \$336 per pound more than the proposed regulations, and is expected to result in an increase in the cannabis industry's revenue by \$641 million with a decrease in quantity sold by 57,549 pounds when compared to the non-regulated baseline. The regulations are expected to result in a total increase in cost of \$6.4 billion and generate a total benefit of \$6 billion.

The lower-cost alternative was not chosen because the additional safety and security obtained from the proposed regulations are important enough to warrant the additional cost. Adequately monitoring the premises of licensees, preventing theft during deliveries, and ensuring adequate and accurate testing are all very important in maintaining the safety and security of the public. Additionally, the lower-cost alternative is expected to result in smaller industry revenue than the proposed regulations. Therefore, the Bureau elected to proceed with the proposed regulations over the lower-cost alternative.

The higher-security alternative was not chosen because the higher costs of this alternative are not warranted by the marginal increase in safety and security. Having at least 2 delivery employees make deliveries does decrease the risk of theft while making deliveries. However, this decrease in theft can be achieved through other methods without having to employ an additional employee. For example, if a delivery employee ensures that the vehicle they use for deliveries has all the required security features, and the employee does not leave cannabis goods in the vehicle unattended, the risk of theft can be decreased without the need for an additional employee. The smaller maximum batch limit of 10 pounds as compared to the 50-pound limit in the proposed regulations is expected to greatly increase cost, but provide very little benefit in terms of more accurate testing. Also, the higher-security alternative is expected to have a smaller increase in industry revenue when compared to the proposed regulation. Therefore, the Bureau has elected to proceed with the proposed regulations over the higher-security alternative.

The regulations adopted by the Bureau are the only regulatory provisions identified by the Bureau that accomplish the goal of ensuring that commercial cannabis activity is conducted by qualified persons in a manner that protects the health and safety of the public. Except as set forth

and discussed above and in the summary and responses to comments, no other alternatives have been proposed or otherwise brought to the Bureau's attention.

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Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
5415/5421	1022.17 (p.2044) 1030.57 (p.2075) 1051.27 (p.2155) 1131.54 (p.2312) 1375.19 (p.2663) 1380.19 (p.2673) 1413.59 (p.2726) 1425.20 (p.2748) 1507.60 (p.2868) 1512.60 (p.2923) 1520.60 (p.2968) 1523.60 (p.3002) 1651.60 (p.3803) 1767.58 (p.4612) 1768.68 (p.4638) 1769.58 (p.4664) 1770.58 (p.4690)	Commenters suggest that delivery drivers should be allowed to carry commonly ordered products in their vehicles up to the limit specified in regulation and be able to receive delivery assignments from a dispatcher while on route.	The Bureau agrees with this comment. Both of these practices are allowed under the language of the regulation.
5415-5421	1569.1 (p.3350)	Commenter offered support for the changes made to section 5415-5421.	The Bureau has noted the commenter's support for the sections.
5416	289.18 (p.758) 1614.22 (p.3600) 3428.1 (p.10109)	Commenters believe that the current language appears to prohibit deliveries to people living in Section 8 or federally funded housing. Commenters suggest that this not be prohibited.	The Bureau disagrees with this comment. Cannabis activity is still illegal under federal law.
5416	1571 (p.3361)	Commenter suggests that retailers should be allowed to deliver medicinal cannabis goods to any jurisdiction. Delivery of adult-use cannabis goods should be up to local jurisdiction regulations.	The Bureau disagrees with this comment. The language of section 5416 allows the delivery of adult-use and medicinal cannabis goods in any jurisdiction. Creating different rules for medicinal and adult-use deliveries would likely create additional confusion. The statute does not distinguish between the two types of delivery; therefore, the regulations do not.

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
5416	1625.45 (p.3640)	Commenter suggests that deliveries to all public places be prohibited.	The Bureau agrees in part with this comment. It would be inappropriate to allow deliveries to all public locations. The Bureau believes that the limitation that deliveries may only occur at a physical address will sufficiently limit the potential risk of diversion or theft.
5416	1586.25(p.3440)	Commenter suggests that deliveries be allowed statewide.	The Bureau agrees with this comment. The regulations do not prohibit statewide delivery.

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	82.1 (p.179)		
	83.1 (p.180)		
	83.3 (p.181)		
	85.1 (p.185)		
	87.1 (p.189)		
	87.2 (p.189)		
	87.3 (p.189)		
	88.1 (p.192)		
	88.3 (p.192)		
	91.1 (p.195)		
	91.3 (p.195)		
	92.1 (p.198)		
	92.3 (p.198)		
	93.1 (p.201)		
	94.1 (p.204)		
	95.1 (p.205)		
	95.3 (p.205)		
	96.1 (p.207)		
	96.3 (p.207)		
	97.1 (p.209)		
	97.3 (p.209)		
	98.1 (p.212)		
	98.3 (p.212)		
	99.1 (p.215)		
	100.1 (p.218)		
	100.2 (p.218)		
	101.1 (p.221)		
	102.1 (p.224)		
	102.3 (p.224)		
	103.1 (p.227)		
	105.1 (p.231)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	108.1 (p.235) 108.3 (p.235) 109.1 (p.238) 109.3 (p.239) 110.1 (p.241) 110.3 (p.241) 111.1 (p.244) 111.3 (p.244) 117.1 (p.261) 117.3 (p.261) 118.1 (p.264) 120.1 (p.287) 143 (p.355) 145.1 (p.360) 145.3 (p.360) 146.1 (p.363) 147.1 (p.365) 147.3 (p.365) 148.1 (p.368) 148.3 (p.368) 149.1 (p.371) 151 (p.378) 152.1 (p.379) 152.3 (p.379) 153.1 (p.382) 153.3 (p.382) 154.1 (p.384) 154.3 (p.385) 156.1 (p.388) 156.3 (p.388) 157.1 (p.390)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	159.1 (p.393) 159.3 (p.393) 160 (p.394) 162.1 (p.396) 162.2 (p.403) 163 (p.495) 167.1 (p.505) 168.1 (p.507) 168.3 (p.507) 174.1 (p.516) 175.1 (p.518) 179.1 (p.525) 181 (p.529) 191.1 (p.553) 192.1 (p.554) 200 (p.562) 203.2 (p.566) 207.1 (p.576) 207.3 (p.576) 208.1 (p.579) 208.3 (p.579) 209.1 (p.582) 212.1 (p.589) 212.3 (p.590) 213.1 (p.592) 213.2 (p.592) 216.1 (p.599) 216.3 (p.599) 217.1 (p.602) 217.4 (p.602) 220.1 (p.606)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	221.1 (p.608) 223.1 (p.610) 223.3 (p.610) 225.1 (p.613) 225.3 (p.613) 226.1 (p.615) 226.3 (p.615) 227.1 (p.617) 227.3 (p.617) 228.1 (p.618) 229.1 (p.619) 230.1 (p.620) 231.1 (p.621) 231.3 (p.621) 232.1 (p.622) 233.1 (p.624) 234 (p.625) 235.1 (p.627) 235.3 (p.628) 236.1 (p.629) 237.1 (p.631) 240.1 (p.637) 240.3 (p.637) 241.1 (p.639) 241.3 (p.639) 242 (p.641) 254 (p.661) 255.1 (p.665) 255.3 (p.666) 262.2 (p.681) 263.1 (p.705)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	265.1 (p.710) 271.1 (p.718) 278.1 (p.731) 279.1 (p.734) 282.1 (p.740) 287.1 (p.746) 296.1 (p.768) 301.1 (p.788) 304.1 (p.792) 339.1 (p.831) 535.1 (p.1085) 536 (p.1087) 537.1 (p.1089) 538 (p.1091) 539.1 (p.1093) 540.1 (p.1095) 541.1 (p.1097) 547.1 (p.1103) 571 (p.1132) 593.1 (p.1155) 594.1 (p.1156) 597 (p.1162) 599.1 (p.1165) 600.1 (p.1166) 601.1 (p.1167) 630.1 (p.1198) 631.1 (p.1201) 632.1 (p.1204) 633.1 (p.1206) 634.1 (p.1208) 643.1 (p.1221)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	658.1 (p.1250) 660.1 (p.1255) 661.1 (p.1257) 668.8 (p.1276) 678.1 (p.1291) 682 (p.1297) 752.1 (p.1414) 755.1 (p.1447) 758.1 (p.1461) 759.1 (p.1463) 760.2 (p.1466) 767.1 (p.1478) 768.1 (p.1479) 769.1 (p.1480) 770.1 (p.1481) 781.1 (p.1505) 856.1 (p.1703) 861.1 (p.1712) 862.1 (p.1713) 864.1 (p.1716) 865.1 (p.1717) 866 (p.1718) 915.1 (p.1759) 919.1 (p.1771) 920 (p.1772) 927.1 (p.1812) 929 (p.1823) 932 (p.1845) 934.1 (p.1853) 936.1 (p.1858) 939.1 (p.1872)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	940.1 (p.1873) 943 (p.1878) 944 (p.1880) 945.1 (p.1882) 946 (p.1884) 947 (p.1886) 948.1 (p.1888) 949.1 (p.1890) 958 (p.1908) 963.1 (p.1913) 1008.1 (p.2022) 1019.1 (p.2036) 1023.1 (p.2046) 1027.1 (p.2055) 1037.1 (p.2085) 1050.1 (p.2149) 1064.1 (p.2171) 1108 (p.2255) 1110.1 (p.2257) 1111 (p.2258) 1264.1 (p.2476) 1351.1 (p.2582) 1368.1 (p.2649) 1370.1 (p.2654) 1378.1 (p.2667) 1412.1 (p.2708) 1415.1 (p.2734) 1509.1 (p.2879) 1545.1 (p.3184) 1552.33 (p.3267) 1571 (p.3363)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	1572.1 (p.3369) 1573.1 (p.3389) 1574.1 (p.3392) 1577 (p.3399) 1590.1 (p.3464) 1591.1 (p.3467) 1592.1 (p.3470) 1593.1 (p.3474) 1594.40 (p.3496) 1595.1 (p.3502) 1596.1 (p.3504) 1597.1 (p.3507) 1598.1 (p.3522) 1599.1 (p.3525) 1600.1 (p.3528) 1613.6 (p.3590) 1616 (p.3602) 1617 (p.3604) 1625.45 (p.3640) 1637 (p.3688) 1707.18 (p.3994) 1709.18 (p.4005) 1714.42 (p.4057) 1727.1 (p.4132) 1757.2 (p.4463) 1761.1 (p.4522) 1762 (p.4524) 1776 (p.4713) 1777.1 (p.4715) 3372 (p.10031) 3378 (p.10045)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	3379 (p.10046) 3413.2 (p.10090) 3449.2 (p.10138) 3453.2 (p.10144) 3463.1 (p.10157) 3464 (p.10158) 3491.1 (p.10192) 3499.3 (p.10201) 3526.1 (p.10238) 3527 (p.10239) 3533 (p.10247) 3534 (p.10248) 3535 (p.10249) 3542 (p.10259) 3543 (10260)		The Bureau has noted the commenters' support for the sections.
5416(d)	44 (p.76) 51 (p.89) 77 (p.173) 78 (p.174) 79 (p.175) 84 (p.183) 106 (p.233) 119.25 (p.282) 158 (p.391) 176 (p.519) 177.1 (p.521) 188.2 (p.540) 210 (p.584) 238 (p.633) 251 (p.656) 259 (p.672)	Commenters offered support for the regulation allowing retailers to deliver to any jurisdiction. This will ensure access for medicinal patients, allow for licensees to conduct business in areas where there is a lack of local control, and reduces the complexity in having to learn and follow many different sets of rules.	

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	268 (p.714) 317 (p.807) 318-320 (p.808-810) 324 (p.814) 327 (p.817) 328 (p.818) 332 (p.822) 336 (p.826) 340 (p.833) 342 (p.835) 344 (p.836) 345 (p.837) 347 (p.839) 351 (p.884) 353 (p.888) 355 (p.890) 356 (p.891) 357 (p.892) 359 (p.894) 360 (p.895) 363 (p.898) 364 (p.899) 366 (p.901) 367 (p.902) 368 (p.903) 369 (p.904) 370 (p.905) 371 (p.906) 372 (p.907) 373 (p.908)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	374 (p.909) 377 (p.912) 379 (p.914) 382 (p.917) 383 (p.918) 384 (p.919) 385 (p.920) 388 (p.923) 398(p.933) 399 (p.934) 401 (p.937) 402 (p.938) 404 (p.940) 405 (p.941) 408 (p.944) 409 (p.945) 410 (p.946) 412 (p.948) 413 (p.949) 414 (p.950) 415 (p.951) 417 (p.953) 418 (p.954) 420 (p.956) 421 (p.957) 423 (p.959) 426 (p.962) 427 (p.963) 428 (p.964) 429 (p.965) 431 (p.966)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	433 (p.968)		
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	437 (p.974)		
	438 (p.977)		
	439 (p.980)		
	440 (p.983)		
	441 (p.986)		
	442 (p.989)		
	443 (p.992)		
	447 (p.998)		
	451 (p.1002)		
	454 (p.1004)		
	455 (p.1005)		
	458 (p.1008)		
	459 (p.1009)		
	460 (p.1010)		
	462 (p.1012)		
	464 (p.1014)		
	465 (p.1015)		
	468 (p.1018)		
	470 (p.1020)		
	471 (p.1021)		
	472 (p.1022)		
	473 (p.1023)		
	474 (p.1024)		
	475 (p.1025)		
	476 (p.1026)		
	477 (p.1027)		
	478 (p.1028)		
	480 (p.1030)		
	481 (p.1031)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
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	483 (p.1033)		
	487 (p.1037)		
	491 (p.1041)		
	492 (p.1042)		
	495 (p.1045)		
	498 (p.1048)		
	500 (p.1050)		
	504 (p.1054)		
	505 (p.1055)		
	506 (p.1056)		
	507 (p.1057)		
	509 (p.1059)		
	510 (p.1060)		
	512 (p.1062)		
	515 (p.1065)		
	516 (p.1066)		
	517 (p.1067)		
	518 (p.1068)		
	521 (p.1071)		
	522 (p.1072)		
	527 (p.1077)		
	528 (p.1078)		
	531 (p.1081)		
	532 (p.1082)		
	533 (p.1083)		
	534 (p.1084)		
	543 (p.1099)		
	546 (p.1102)		
	550 (p.1107)		
	551 (p.1108)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	<p>552 (p.1109)</p> <p>555 (p.1112)</p> <p>557 (p.1114)</p> <p>559 (p.1116)</p> <p>560 (p.1117)</p> <p>561 (p.1118)</p> <p>562 (p.1119)</p> <p>566.3 (p.1127)</p> <p>567 (p.1128)</p> <p>568 (p.1129)</p> <p>570.3 (p.1131)</p> <p>574 (p.1136)</p> <p>576 (p.1138)</p> <p>577 (p.1139)</p> <p>579 (p.1141)</p> <p>580 (p.1142)</p> <p>581 (p.1143)</p> <p>582 (p.1144)</p> <p>583 (p.1145)</p> <p>584 (p.1146)</p> <p>585 (p.1147)</p> <p>586 (p.1148)</p> <p>590 (p.1152)</p> <p>591 (p.1153)</p> <p>596 (p.1160)</p> <p>603 (p.1169)</p> <p>604 (p.1170)</p> <p>607 (p.1173)</p> <p>609.3 (p.1175)</p> <p>610 (p.1177)</p> <p>620 (p.1186)</p>		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	622 (p.1188)		
	623 (p.1189)		
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	628 (p.1194)		
	637 (p.1212)		
	638 (p.1213)		
	639 (p.1214)		
	642.3 (p.1218)		
	644 (p.1223)		
	645 (p.1224)		
	650 (p.1241)		
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	653 (p.1244)		
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	655 (p.1246)		
	664 (p.1260)		
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	667 (p.1263)		
	669 (p.1281)		
	670 (p.1282)		
	671 (p.1283)		
	672 (p.1284)		
	673 (p.1285)		
	683 (p.1300)		
	684 (p.1303)		
	685.4 (p.1307)		
	687 (p.1331)		
	688.7 (p.1335)		
	689 (p.1337)		
	691 (p.1340)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	692 (p.1341)		
	693 (p.1342)		
	694 (p.1343)		
	695 (p.1344)		
	696 (p.1345)		
	697 (p.1346)		
	698 (p.1347)		
	699 (p.1348)		
	701 (p.1350)		
	702 (p.1351)		
	703 (p.1352)		
	704 (p.1353)		
	705 (p.1354)		
	706 (p.1355)		
	707.1 (p.1356)		
	708.2 (p.1357)		
	709.2 (p.1359)		
	710.2 (p.1361)		
	715 (p.1366)		
	717.2 (p.1369)		
	722 (p.1375)		
	725 (p.1379)		
	727 (p.1382)		
	728 (p.1383)		
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	736 (p.1391)		
	737 (p.1392)		
	738 (p.1393)		
	739 (p.1394)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	<p>740 (p.1395)</p> <p>741 (p.1396)</p> <p>742 (p.1397)</p> <p>743 (p.1398)</p> <p>744 (p.1399)</p> <p>745 (p.1400)</p> <p>746 (p.1401)</p> <p>747 (p.1402)</p> <p>748 (p.1403)</p> <p>749 (p.1404)</p> <p>761 (p.1468)</p> <p>762 (p.1469)</p> <p>775 (p.1491)</p> <p>776 (p.1492)</p> <p>777 (p.1493)</p> <p>780.3 (p.1498)</p> <p>782.3 (p.1509)</p> <p>785 (p.1524)</p> <p>796 (p.1536)</p> <p>797 (p.1537)</p> <p>798 (p.1538)</p> <p>799.3 (p.1541)</p> <p>803 (p.1619)</p> <p>807.3 (p.1625)</p> <p>834 (p.1658)</p> <p>835 (p.1661)</p> <p>836 (p.1664)</p> <p>837 (p.1667)</p> <p>838 (p.1670)</p> <p>839 (p.1673)</p> <p>840 (p.1676)</p>		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	841 (p.1679) 842 (p.1682) 843 (p.1685) 853 (p.1698) 854 (p.1699) 857 (p.1705) 916 (p.1760) 917 (p.1761) 918.3 (p.1764) 921.5 (p.1777) 931.4 (p.1831) 933 (p.1848) 935 (p.1855) 951 (p.1894) 953.1 (p.1900) 960 (p.1910) 966 (p.1917) 968 (p.1919) 970 (p.1922) 1001.3 (p.1989) 1003.4 (p.2008) 1025.4 (p.2050) 1038.4 (p.2093) 1046.7 (p.2139) 1160.1 (p.2359) 1328 (p.2557) 1334 (p.2564) 1345 (p.2575) 1356.1 (p.2591) 1359.3 (p.2602) 1388 (p.2684)		

Regulation Section Number(s) and Page Location	45-Day Comment Summary of 45-Day Comments	Bureau Response to 45-Day Comments
<p>1391 (p.2688)</p> <p>1403 (p.2699)</p> <p>1405 (p.2701)</p> <p>1409 (p.2705)</p> <p>1410 (p.2706)</p> <p>1411 (p.2707)</p> <p>1416 (p.2735)</p> <p>1426 (p.2750)</p> <p>1430 (p.2761)</p> <p>1431 (p.2762)</p> <p>1432 (p.2763)</p> <p>1433 (p.2764)</p> <p>1441.2 (p.2775)</p> <p>1479 (p.2821)</p> <p>1484 (p.2826)</p> <p>1485 (p.2827)</p> <p>1490 (p.2832)</p> <p>1498 (p.2840)</p> <p>1506.3 (p.2848)</p> <p>1508.1 (p.2875)</p> <p>1510.2 (p.2900)</p> <p>1521.11 (p.2978)</p> <p>1522 (p.2980)</p> <p>1525.1 (p.3012)</p> <p>1527.1 (p.3029)</p> <p>1533.25 (p.3141)</p> <p>1544.1 (p.3181)</p> <p>1549.4 (p.3233)</p> <p>1559.21 (p.3323)</p> <p>1564.3 (p.3340)</p> <p>1578.1 (p.3404)</p>		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	<p>1578.9 (p.3407)</p> <p>1580.1 (p.3410)</p> <p>1581.1 (p.3414)</p> <p>1582.1 (p.3418)</p> <p>1583.1 (p.3422)</p> <p>1584.1 (p.3426)</p> <p>1585.1 (p.3430)</p> <p>1586.1 (p.3434)</p> <p>1586.28 (p.3440)</p> <p>1587.1 (p.3445)</p> <p>1609.25 (p.3574)</p> <p>1611.1 (p.3580)</p> <p>1623.1 (p.3617)</p> <p>1643.3 (p.3749)</p> <p>1644.2 (p.3753)</p> <p>1655 (p.3816)</p> <p>1702.26 (p.3952)</p> <p>1712 (p.4020)</p> <p>1717.1 (p.4078)</p> <p>1718.1 (p.4083)</p> <p>1739.12 (p.4320)</p> <p>1744.27 (p.4358)</p> <p>1746 (p.4367)</p> <p>1756.17 (p.4459)</p> <p>1758.4 (p.4468)</p> <p>1759.4 (p.4497)</p> <p>1763.4 (p.4531)</p> <p>1778.38 (p.4743)</p> <p>1789.9 (p.4795)</p> <p>1779.5 (p.4758)</p>		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	1801-3361 (p.4885-9582) 3374 (p.9830) 3382 (p.10050) 3401 (p.10073) 3403.3 (p.10077) 3452.1 (p.10142) 3471 (p.10166) 3476.1 (p.10172) 3490 (p.10190) 3514 (p.10216) 3515 (p.10217) 3528 (p.10240) 3531 (p.10244) 3532 (p.10245) 3538 (p.10254) 3545 (p.10262) 3546 (p.10263) 3556 (p.10274) 3562 (p.10281) 3576 (p.10297) 3578.2 (p.10299) 3590 (p.10313) 3592 (p.10315) 3597.13 (p.10325) 3631-3777 (p.9583-10023)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
5416(d)	312 (p.802) 321 (p.811) 322 (p.812) 323 (p.813) 326 (p.816) 329 (p.819) 331 (p.821) 333 (p.823) 334 (p.824) 335 (p.825) 338 (p.829) 346 (p.838) 354 (p.889) 358 (p.893) 362 (p.897) 365 (p.900) 375 (p.910) 376 (p.911) 378 (p.913) 380 (p.915) 386 (p.921) 389 (p.924) 390 (p.925) 391 (p.926) 392 (p.927) 395 (p.930) 396 (p.931) 397 (p.932) 403 (p.939) 406 (p.942) 407 (p.943)	Commenters suggest that the delivery of cannabis goods should not be prohibited.	The Bureau agrees with this comment. The regulations do not prohibit cannabis delivery.

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
			<p>411 (p.947)</p> <p>416 (p.952)</p> <p>419 (p.955)</p> <p>423 (p.959)</p> <p>425 (p.961)</p> <p>432 (p.967)</p> <p>444 (p.995)</p> <p>445 (p.996)</p> <p>446 (p.997)</p> <p>448 (p.999)</p> <p>449 (p.1000)</p> <p>456 (p.1006)</p> <p>457 (p.1007)</p> <p>461 (p.1011)</p> <p>463 (p.1013)</p> <p>466 (p.1016)</p> <p>467 (p.1017)</p> <p>479 (p.1029)</p> <p>484 (p.1034)</p> <p>485 (p.1035)</p> <p>486 (p.1036)</p> <p>488 (p.1038)</p> <p>489 (p.1039)</p> <p>493 (p.1043)</p> <p>494 (p.1044)</p> <p>496 (p.1046)</p> <p>497 (p.1047)</p> <p>501 (p.1051)</p> <p>502 (p.1052)</p> <p>503 (p.1053)</p> <p>508 (p.1058)</p>

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	511 (p.1061) 513 (p.1063) 514 (p.1064) 519 (p.1069) 520 (p.1070) 529 (p.1079) 542 (p.1098) 543 (p.1099) 544 (p.1100) 545 (p.1101) 548 (p.1105) 549 (p.1106) 500 (p.1107) 553 (p.1110) 554 (p.1111) 556 (p.1113) 558 (p.1115) 572 (p.1134) 573 (p.1135) 575 (p.1137) 587 (p.1149) 588 (p.1150) 589 (p.1151) 605 (p.1171) 606 (p.1172) 608 (p.1174) 611 (p.1178) 614 (p.1180) 615 (p.1181) 616 (p.1182) 617 (p.1183)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	618 (p.1184) 621 (p.1187) 625 (p.1191) 627 (p.1193) 635 (p.1210) 640 (p.1215) 647 (p.1238) 649 (p.1240) 656 (p.1247) 657 (p.1248) 663 (p.1259) 674 (p.1286) 675 (p.1287) 700 (p.1349) 714 (p.1365) 724 (p.1378) 726 (p.1380) 773 (p.1489) 774 (p.1490) 787 (p.1526) 913 (p.1753) 957 (p.1907) 959 (p.1909) 971 (p.1923) 976 (p.1927) 977.1 (p.1928) 1109 (p.2256) 1123 (p.2271) 1334 (p.2564) 1422 (p.2741) 1423 (p.2742)		

Regulation Section	45-Day Comment Number(s) and Page Location	Summary of 45-Day Comments	Bureau Response to 45-Day Comments
	1466.1 (p.2804) 1470 (p.2810) 3441 (p.10121) 1612.4 (p.3584) 1760.1 (p.4513) 3370.1 (p.10026) 3401 (p.10073) 3466 (p.10161)		The Bureau agrees with this comment. The language of section 5416 specifically addresses this issue.
5416	1364.7 (p.2636) 1636.6 (p.3687)	Commenters suggest that the regulations clearly indicate whether a retailer may deliver cannabis goods into a jurisdiction that has explicitly prohibited delivery.	The Bureau disagrees with this comment. The Act specifically allows for retailers to engage in the sale of cannabis goods through delivery in Business and Professions Code Section 26070. The regulations requiring the verification of the age and identity of the person receiving the delivery should limit the risk of inadvertently selling cannabis goods to a minor.
5416	668.8 (p.1271) 1594.39 (p.3496) 1714.41 (p.4056)	Commenters suggest that the delivery of adult-use cannabis should not be allowed. Commenters also suggest that if delivery is allowed, it should be limited to residential addresses. Delivery should also be prohibited to "youth serving facilities" and to areas where youth typically reside.	The Bureau disagrees with this comment. Licensees are responsible for the actions of their employees as the license holder.
5416(b)	1586.27 (p.3440)	Commenter requests that the licensee should not be responsible for a delivery employee leaving the state with cannabis goods.	The Bureau disagrees with this comment. There are rules in place prohibiting advertising to minors that apply to all aspects of a licensee's business, including delivery vehicles, and the use of images that are attractive to children.
5417	46.5 (p.81)	Commenter suggests that delivery vehicle requirements include restrictions on advertising/wrappings on vehicles and prohibit the use of images that are appealing to minors.	

**Appendix A Pages 318-508,  
Appendix B Pages 1-41, and  
Appendix C Pages 1-335  
Intentionally Omitted**

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
5415.1	3740.2 (p.5824) 3744.2 (p.5846)	Commenters suggests clarifying the regulation by specifying that delivery by the "employees or agents" of the technology platform.	The Bureau disagrees with this comment. The current language of the regulation applies to the employees and agents of a technology platform.
5415.1	3740.3 (p.5824) 3744.3 (p.5846)	Commenters suggests amending the regulation to allow for licensees to advertise or market cannabis goods in conjunction with a technology platform so long as the advertisement clearly provides the name and license number of the licensee. Commenter believes that the current language may prevent licensees from being included in "aggregator sites."	The Bureau disagrees with this comment. The Bureau believes that all licensees should be aware and responsible of all marketing of their brand.
5415.1	3608.6 (p.4710) 3655.4 (p.5338) 3681.6 (p.5467)	Commenters suggest that the regulations further specify what will be considered a "cannabis delivery technology platform."	The Bureau disagrees with this comment. It is important to keep a broad interpretation of the term "technology platform," as technology is rapidly progressing. Limiting the definition to a specific type of technology platform may render the rule useless when technology changes. Under the current regulation, the Bureau will be able to assess the facts of the current situation to determine whether the regulations should apply.
5416(d)	16 (p.29) 44 (p.64) 45 (p.66) 46 (p.68) 47 (p.70) 48 (p.72) 49 (p.74) 50 (p.76) 51 (p.78) 52.1 (p.81) 54 (p.90) 55 (p.92) 56 (p.94)	Commenters request that local jurisdictions have the authority to prohibit cannabis delivery in their jurisdiction.	The Bureau agrees in part with this comment. Local jurisdictions have the ability to regulate commercial cannabis businesses operating in their jurisdiction. However, the Act does not allow a local jurisdiction to prevent delivery on public roads. As a result of the 45-day public comment, the Bureau added clarifying language that delivery pursuant to this section must be in compliance with delivery requirements in the regulations to avoid confusion.

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	57 (p.96) 58 (p.98) 86 (p.107) 87 (p.108) 89 (p.110) 3281 (p.4015) 3282 (p.4017) 3391.1 (p.4281) 3397.1 (p.4288) 3429 (p.4332) 3440.1 (p.4336) 3486 (p.3494) 3494.6 (p.4406) 3496.1 (p.4408) 3497.1 (p.4409) 3499.1 (p.4412) 3503 (p.4415) 3515 (p.4430) 3528.6 (p.4446) 3537 (p.4458) 3538 (p.4459) 3539 (p.4460) 3543 (p.4463) 3544 (p.4464) 3551 (p.4472) 3582.1 (p.4590) 3583 (p.4592) 3584.1 (p.4597) 3586.1 (p.4603) 3587.1 (p.4606) 3591.1 (p.4617) 3592.1 (p.4620) 3593.1 (p.4623) 3594.1 (p.4626)		

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	3595.2 (p.4634) 3606.1 (p.4701) 3607 (p.4705) 3609.1 (p.4725) 3610.1 (p.4728) 3611.1 (p.4731) 3612.3 (p.4736) 3613 (p.4737) 3614.15 (p.4746) 3615.1 (p.4748) 3617.1 (p.4755) 3620.15 (p.4775) 3621.1 (p.4778) 3622.1 (p.4782) 3623 (p.4783) 3624.1 (p.4786) 3626 (p.4791) 3661 (p.5354) 3678.1 (p.5443) 3686.2 (p.5507) 3693.1 (p.5542) 3715.1 (p.5675) 3723.1 (p.5724) 3725.1 (p.5737) 3731.1 (p.5767) 3732.1 (p.5770) 3743.1 (p.5842) 3746.1 (p.5865) 3746.2 (p.5866) 3746.3 (p.5867) 3754.1 (p.5917) 3754.2 (p.5918) 3757.1 (p.5932) 3758.1 (p.5934)		

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	3759.1 (p.5936) 3760.1 (p.5938) 3761.1 (p.5940) 3762.1 (p.5942) 3763.1 (p.5944) 3764.1 (p.5946) 3765.1 (p.5948) 3766.1 (p.5950) 3767.1 (p.5952) 3768.1 (p.5954) 3769.1 (p.5956) 3770.1 (p.5958) 3771.1 (p.5960) 3772.1 (p.5962) 3773.1 (p.5964) 3774.1 (p.5966) 3775.1 (p.5968) 3776.1 (p.5970) 3777.1 (p.5972) 3778.1 (p.5974) 3779.1 (p.5976) 3780.1 (p.5978) 3781.1 (p.5980) 3782.1 (p.5982) 3783.1 (p.5984) 3784.1 (p.5986) 3785.1 (p.5988) 3786.1 (p.5990) 3787.1 (p.5992) 3788.1 (p.5994) 3789.1 (p.5996) 3790.1 (p.5998) 3791.1 (p.6000) 3792.1 (p.6002)		

Regulation Section	15-Day Comment Number(s) and Page	Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	3795.1 (p.6017)			
	3796.1 (p.6020)			
	3798.1 (p.6027)			
	3799.1 (p.6032)			
	3800.1 (p.6034)			
	3801.1 (p.6036)			
	3802.1 (p.6038)			
	3803.1 (p.6040)			
	3804.1 (p.6042)			
	3805.1 (p.6044)			
	3806.1 (p.6046)			
	3807.1 (p.6048)			
	3808.1 (p.6050)			
	3809.1 (p.6052)			
	3810.1 (p.6054)			
	3811.1 (p.6056)			
	3812.1 (p.6058)			
	3813.1 (p.6060)			
	3814.1 (p.6062)			
	3815.1 (p.6064)			
	3816.1 (p.6066)			
	3817.1 (p.6068)			
	3818.1 (p.6070)			
	3819.1 (p.6072)			
	3820.1 (p.6074)			
	3821.1 (p.6076)			
	3822.1 (p.6078)			
	3823.1 (p.6081)			
	3824.1 (p.6083)			
	3825.1 (p.6085)			
	3826.1 (p.6087)			
	3827.1 (p.6089)			
	3828.1 (p.6091)			
	3829.1 (p.6093)			

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	3830.1 (p.6095)		
	3831.1 (p.6097)		
	3832.1 (p.6099)		
	3833.1 (p.6101)		
	3834.1 (p.6103)		
	3835.1 (p.6105)		
	3836.1 (p.6107)		
	3837.1 (p.6109)		
	3838.1 (p.6111)		
	3839.1 (p.6113)		
	3840.1 (p.6116)		
	3841.1 (p.6118)		
	3842.1 (p.6120)		
	3843.1 (p.6122)		
	3844.1 (p.6124)		
	3845.1 (p.6126)		
	3846.1 (p.6128)		
	3847.1 (p.6130)		
	3848.1 (p.6132)		
	3849.1 (p.6134)		
	3850.1 (p.6136)		
	3851.1 (p.6138)		
	3852.1 (p.6140)		
	3853.1 (p.6142)		
	3854.1 (p.6144)		
	3855.1 (p.6146)		
	3856.1 (p.6148)		
	3857.1 (p.6150)		
	3864.1 (p.6190)		
	3865.1 (p.6192)		
	3866.1 (p.6194)		
	3867.1 (p.6196)		
	3868.1 (p.6198)		
	3869.1 (p.6200)		

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	3870.1 (p.6202) 3871.1 (p.6204) 3880 (p.6218) 3881.1 (p.6222) 3887.1 (p.6227) 3888.1 (p.6230) 3891.1 (p.6244) 3892.1 (p.6248) 3893.1 (p.6251) 3899.1 (p.6296) 3900.1 (p.6298) 3901.1 (p.6300) 3903 (p.6303) 3904 (p.6306) 3905 (p.6307) 3906 (p.6309) 3907.1 (p.6311) 3910 (p.6318) 3911.1 (p.6319) 3912.1 (p.6321) 3913.1 (p.6323) 3914.1 (p.6325) 3915.1 (p.6327) 3916.1 (p.6330) 3917.1 (p.6333) 3918.1 (p.6336) 3919.1 (p.6338) 3920.1 (p.6340) 3921.1 (p.6341) 3922.1 (p.6343) 3923.1(p.6345) 3926.1 (p.6353) 3930.1 (6359) 3931.1 (p.6361)		

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	3932.1 (p.6363)		
	3933.1 (p.6365)		
	3934.1 (p.6367)		
	3935.1 (p.6369)		
	3936.1 (p.6371)		
	3937.1 (p.6373)		
	3938.1 (p.6375)		
	3939.1 (p.6377)		
	3940.1 (p.6379)		
	3941.1 (p.6381)		
	3942.1 (p.6383)		
	3943.1 (p.6385)		
	3944.1 (p.6387)		
	3945.1 (p.6389)		
	3946.1 (p.6391)		
	3947.1 (p.6393)		
	3948.1 (p.6395)		
	3949.1 (p.6397)		
	3950.1 (p.6399)		
	3951.1 (p.6401)		
	3952.1 (p.6403)		
	3953.1 (p.6405)		
	3954.1 (p.6407)		
	3955.1 (p.6409)		
	3956.1 (p.6411)		
	3957.1 (p.6413)		
	3958.1 (p.6415)		
	3959.1 (p.6417)		
	3960.1 (p.6419)		
	3961.1 (p.6421)		
	3962.1 (p.6423)		
	3963.1 (p.6425)		
	3964.1 (p.6427)		
	3965.1 (p.6429)		

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	3966.1 (p.6431) 3967.1 (p.6433) 3968.1 (p.6435) 3969.1 (p.6437) 3970.1 (p.6439) 3971.1 (p.6441) 3972.1 (p.6443) 3973.1 (p.6445) 3974.1 (p.6447) 3975.1 (p.6449) 3976.1 (p.6451) 3977.1 (p.6453) 3978.1 (p.6455) 3979.1 (p.6457) 3980.1 (p.6459) 3981.1 (p.6461) 3982.1 (p.6463) 3983.1 (p.6465) 3984.1 (p.6467) 3985.1 (p.6469) 3986.1 (p.6471) 3987.1 (p.6473) 3988.1 (p.6475) 3989.1 (p.6477) 3990.1 (p.6479) 3991.1 (p.6481) 3992.1 (p.6483) 3993.1 (p.6485) 3994.1 (p.6486) 3995.1 (p.6487) 3996.1 (p.6489) 3997.1 (p.6491) 3998.1 (p.6493) 3999.1 (p.6495)		

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	40000.1 (p.6497)		
	4001.1 (p.6499)		
	4002.1 (p.6501)		
	4003.1 (p.6503)		
	4004.1 (p.6505)		
	4005.1 (p.6507)		
	4006.1 (p.6509)		
	4007.1 (p.6511)		
	4008.1 (p.6513)		
	4009.1 (p.6515)		
	4010.1 (p.6516)		
	4011.1 (p.6518)		
	4012.1 (p.6520)		
	4013.1 (p.6522)		
	4014.1 (p.6524)		
	4015.1 (p.6526)		
	4016.1 (p.6528)		
	4017.1 (p.6530)		
	4018.1 (p.6532)		
	4019.1 (p.6534)		
	4020.1 (p.6536)		
	4021.1 (p.6538)		
	4022.1 (p.6540)		
	4023.1 (p.6542)		
	4024.1 (p.6544)		
	4025.1 (p.6546)		
	4026.1 (p.6548)		
	4027.1 (p.6550)		
	4028.1 (p.6552)		
	4029.1 (p.6554)		
	4030.1 (p.6556)		
	4031.1 (p.6558)		
	4032.1 (p.6560)		
	4033.1 (p.6562)		

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	4034.1 (p.6564) 4035.1 (p.6566) 4036.1 (p.6568) 4037.1 (p.6570) 4038.1 (p.6572) 4039.1 (p.6574) 4040.1 (p.6576) 4041.1 (p.6578) 4042.1 (p.6580) 4043.1 (p.6582) 4044.1 (p.6584) 4053.1 (p.6601) 4058.1 (p.6611) 4059.1 (p.6614) 4060.1 (p.6616) 4061.1 (p.6618) 4062.1 (p.6620) 4063.1 (p.6622) 4072 (p.6675) 4082.4 (p.6730) 4084.1 (p.6748) 4086.1 (p.6768) 4098.1 (p.6808) 4106.1 (p.6847) 4112.1 (p.6854) 4113.1 (p.6867) 4114.4 (p.6870) 4116.1 (p.6886) 4117.1 (p.6889) 4119.1 (p.6892) 4120.1 (p.6895) 4122.1 (p.6902) 4125.1 (p.6918) 4126 (p.6920)		

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	4127.1 (p.6923) 4128.1 (p.6926) 4129.1 (p.6929) 4130 (p.6931) 4131.2 (p.6935) 4132.1 (p.6938) 4133.1 (p.6941) 4134 (p.6943) 4135 (p.6945) 4136.1 (p.6948) 4138.1 (p.6955)		The Bureau disagrees with this comment. The Bureau does not have the authority to set tax rules. Additionally, all licensees are required to comply with all relevant tax laws.
5416(d)	3440.2 (p.4336)	Commenter suggests that the regulation require that licensed retailers pay taxes to the cities in which deliveries occur.	The Bureau has noted commenters' support for the subsection. The Bureau provided support for the ability to delivery cannabis goods to any jurisdiction.

Regulation Section	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
	3524 (p.4441) 3535 (p.4455) 3560 (p.4479) 3561 (p.4480) 3314.4 (p.4116) 3570.24 (p.46663) 3597.1 (p.4533) 3662.1 (p.5359) 3688.1 (p.5515) 3714.9 (p.5672) 3720.1 (p.5708) 3722.1 (p.5718) 3728.2 (p.5755) 3734.22 (p.5794) 3740.1 (p.5823) 3744.1 (p.5845) 4064.27 (p.6642) 4079.1 (p.6715) 4115.41 (p.6880)		The Bureau has noted commenters' support for the subsection.
5416(d)	1738-1813 (P.2602-2752) 2140 – 2178 (p.3022-3102) 2220 – 2362 (p.3104-3395) 2648 – 2693 (p.3435-3547) 2741 – 2880 (p.3550-3890) 3161 – 3219 (p.3892-4008) 3314.4 (p.4116) 3570.24 (p.4533) 4073.6 (p.6686)	Commenters provided support for prohibition on delivery to schools.	

Regulation Section Number(s) and Page Location	15-Day Comment Number(s) and Page Location	Summary of 15-Day Comments	Bureau Response to 15-Day Comments
5416(d)	3898.7 (p.6293)	Commenter believes that the regulation does not clearly indicate whether a retailer can deliver to any jurisdiction.	The Bureau disagrees with this comment. The regulation clearly indicates that a retailer may deliver to any jurisdiction.
5417	4115.42 (p.6881)	Commenter offered support for the addition of the requirement that delivery vehicles not be marked in any way to indicate that they are carrying cannabis goods.	The Bureau has noted commenter's support for the section.
5417(a)	3858.3 (p.6155)	Commenter suggests that an exception to the prohibition on markings or indication that the vehicle is carrying cannabis for companies whose logos do not use any cannabis-related language or markings on their logo.	The Bureau disagrees with this comment. The intention of the rule is to reduce the risk of theft by not making it known that the vehicle is carrying large amounts of cannabis goods. The exception suggested here would nullify the intent of the rule.
5417(b)	3628.18 (p.4806)	Commenter believes that requiring delivery employees to use the secure container for carrying cannabis goods increases the risk of theft. Commenter suggests allowing for exceptions to the requirements for the storage container if the licensee can prove show that the carrying method is secure.	The Bureau disagrees with this comment. Requiring a secure container does not increase the risk of theft over not requiring a secure container. The Bureau has developed regulations for how cannabis goods are to be securely carried. Providing an open-ended exception to the rule would likely cause additional confusion.
5417(b)	3310.12 (p.4103) 3653.11 (p.5325) 3719.12 (p.5704) 3898.8 (p.6293) 4079.4 (p.6717)	Commenters suggest that the requirement that no portion of the box, container, or cage, be comprised of the body of the vehicle or trailer be removed because the requirements is costly for licensees and using a portion of the vehicle as a container is more secure.	The Bureau disagrees with this comment. The Bureau is required to establish minimum security and transportation safety requirements for transporting cannabis. The Bureau has determined that requiring the box or container the cannabis is locked in to be affixed to the vehicle and providing a secondary level of security is necessary to prevent theft. Vehicles transporting cannabis goods may be stopping during transport for necessary rest, fuel, or vehicle repairs. During such time, the vehicle may be left unattended, including overnight with cannabis goods inside. If the container is not affixed to the inside of the vehicle it would be easier for a thief to take the container with all the cannabis or to break open the door or trunk of the vehicle and take the cannabis. Requiring that it be affixed to the inside of the

**Appendix C Pages 350-382  
and Appendix D Pages 1-66  
Intentionally Omitted**

# EXHIBIT D

(Bureau of Cannabis Control  
Cannabis Advisory Committee  
Meeting Minutes from August 20,  
2018)



**Cannabis Advisory Committee**  
**Meeting Minutes – August 20, 2018**  
Hilton Sacramento Arden West – Grand Ballroom  
2200 Harvard Street, Sacramento CA 95815

**Members Present (18):**

Avis Bulbulyan  
Timmen Cermak  
Matt Clifford  
Bill Dombrowski  
Jeff Ferro  
Kristin Heidelbach-Teramoto  
Eric Hirata  
Alice Huffman  
Kristin Lynch  
Kristin Nevedal  
LaVonne Peck  
Matt Rahn  
Keith Stephenson  
James Sweeney  
Helena Williams  
David Woolsey  
Ben Wu  
Beverly Yu

**Members Absent (4)**

Catherine Jacobson  
Arnold Leff  
Joe Nicchitta  
Tamar Todd

**Bureau of Cannabis Control (Bureau) Executive Staff Present**

Lori Ajax – Bureau Chief  
Melanie V. Ramil – Deputy Bureau Chief  
Tamara Colson – Assistant Chief Counsel  
Andre Jones – Assistant Chief of External and Intergovernmental Affairs  
Alex Traverso — Assistant Chief of Communications

## **Minutes Taken By**

Kaila Fayne, Staff Services Analyst, Bureau of Cannabis Control

### **1. Welcome, Call to Order, and Establishment of a Quorum (Matt Rahn, Chair, Cannabis Advisory Committee)**

Matt Rahn, Cannabis Advisory Committee (Committee) Chair, called the meeting to order. Meeting official start time noted as 10:06 AM.

Roll was taken, 18 Committee members were present. Quorum was established.

Committee Comment: 0 Comments

Public Comment: 0 Comments

### **2. Review and Approval of May 17, 2018 Cannabis Advisory Committee Meeting Minutes**

The Committee reviewed the May 17, 2018 draft minutes.

Committee Comment: 3 Comments

**Chair Rahn** commented that there was some debate regarding whether a motion had passed or failed at the prior meeting. He stated that Bureau staff had reviewed the webcast and the transcripts and determined the minutes were accurate. He clarified that due to the number of committee members present during the May meeting's vote, the motion did not have enough "ayes" to pass as required under the Bagley-Keene Opening Meeting Act (Bagley-Keene).

**Committee Member Woolsey** motioned the Committee to approve the May 17 meeting minutes. **Committee Member Sweeney** seconded the motion.

Public Comment: 3 Comments

**Paul Hansbury:** Mr. Hansbury commented that the motion that was discussed was regarding security measures for microbusinesses and stated that there was confusion about what defines a microbusiness under the Bureau's regulations, which may have caused the motion to not receive enough votes. He urged the Committee to re-vote on the motion now that there was a clearer understanding of what a microbusiness is.

**Susan Tibbon:** Ms. Tibbon stated that in previous meetings, the Committee and members of the public agreed that security measures should be determined by local jurisdictions rather than the State. She added that the regulations are guidelines and not set in stone.

**Chair Rahn** reminded the public that comments in this period are on the motion to approve the May 17 meeting minutes.

**John Brower:** Mr. Brower urged the Committee to re-evaluate the motion on security measures for microbusinesses and suggested that local authorities have temporary control over the businesses in their jurisdiction until the statewide market is more developed.

Roll call vote was taken, the motion to approve and adopt the May 17, 2018 minutes passed on a 18-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
<b>Matt Clifford</b>	✓				
Bill Dombrowski	✓				
<b>Jeff Ferro</b>	✓				
Kristin Heidelbach-Teramoto	✓				
<b>Eric Hirata</b>	✓				
Alice Huffman	✓				
<b>Catherine Jacobson</b>				✓	
<b>Arnold Leff</b>				✓	
<b>Kristin Lynch</b>	✓				
<b>Kristin Nevedal</b>	✓				
<b>Joe Nicchitta</b>				✓	
<b>LaVonne Peck</b>	✓				
<b>Matt Rahn</b>	✓				
<b>Keith Stephenson</b>	✓				
<b>James Sweeney</b>	✓				
<b>Tamar Todd</b>				✓	
<b>Helena Williams</b>	✓				
<b>David Woolsey</b>	✓				
<b>Ben Wu</b>	✓				
<b>Beverly Yu</b>	✓				

### 3. Review and Approval of July 19, 2018 Cannabis Advisory Committee Meeting Minutes

**Committee Member Sweeney** motioned for the Committee to approve and adopt the July 19 meeting minutes. **Committee Member Woolsey** seconded the motion.

Committee Comment: 0 Comments

Public Comment: 0 Comments

Roll call vote was taken, the motion to approve and adopt the July 19, 2018 minutes passed on a 18-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

**4. Chair's Report: Status of the Advisory Committee's Adopted Recommendations in the Current and Proposed Regulations of the Bureau of Cannabis Control, California Department of Food and Agriculture, and California Department of Public Health**

**Chair Rahn** provided an overview of the status of the Committee's adopted recommendations in the current and proposed regulations of the Bureau of Cannabis Control, California Department of Food and Agriculture, and California Department of Public Health.

Committee Comments: 16 Comments

**Committee Member Yu** asked if members will be able to modify or clarify any of the recommendations listed prior to the submission to the licensing authorities. **Asst. Chief Counsel Colson** responded and stated that the Committee can discuss the status of each recommendation and whether to include it as a public comment, but modifying or changing recommendations falls outside of what is on the meeting agenda.

**Committee Member Wu** requested clarification that if committee members had additional comments or recommendations, they would need to submit that separately on their own to the licensing authorities. **Chair Rahn** confirmed that additional comments or recommendations would need to be submitted separately to the licensing authorities. **Committee Member Wu** added that a lot of things have changed from when the recommendations were first drafted and noted that he had a lot of recommended modifications that he will submit as his own personal comment.

**Chair Rahn** agreed with **Committee Member Wu** and urged the other committee members to submit public comments before the public comment period ends if they have additional things they would like to see in the licensing authorities' regulations.

**Committee Member Nevedal** requested clarification if one of the cultivation subcommittee's recommendations was amended by the Committee or after the recommendation was already approved. **Chair Rahn** responded that the recommendation was amended by the Committee, then approved and will be submitted as currently written if the Committee decides to move forward with the public comment.

**Committee Member Huffman** requested clarification on how some recommendations were chosen to be included and others not. **Chair Rahn** clarified that the recommendations listed on the handout were the ones the Committee approved and adopted and stated that if there are recommendations that either were not approved by the Committee or if there are additional recommendations that members felt should be reviewed by the licensing authorities, the members can submit those separate from the Committee as their own personal comment or as a representative of their organization.

**Committee Member Cermak** stated that there were four recommendations from the public health subcommittee that were not voted on due to time constraints and asked if those recommendations can be moved forward on behalf of the subcommittee.

**Chair Rahn** responded that those recommendations were statutory and stated that all recommendations that were statutory were pulled and only recommendations that were regulatory were sent to the licensing authorities for review.

**Committee Member Cermak** stated that due to restrictions under Bagley-Keene, the public health subcommittee was not as effective as its members hoped to be, trading transparency for efficiency and asked if he would need to submit the four statutory recommendations as his own personal comments or as the chair of the public health subcommittee. **Chair Rahn** responded that he would be submitting the comments as an individual not as the chair since the subcommittee did not get a chance to meet again and discuss the four recommendations.

**Committee Member Ferro** expressed appreciation to Bureau staff for compiling the report and responses from the licensing authorities.

Public Comment: 31 Comments

**Paul Hansbury:** Mr. Hansbury thanked the Committee for their work and stated that the Chair's report is the closest thing to a consolidated document from all three licensing authorities. He

agreed with **Committee Member Cermak**'s comment that the subcommittees did not have enough time in their meetings to go over everything and expressed concern that amendments in the readopted emergency regulations—namely the prohibition of businesses not being in private residences—was not brought up to the Committee to discuss before the readopted regulations were released.

**Joshua Jenkins:** Mr. Jenkins expressed concern that the Bureau was not adhering to Business and Professions Code section 16102, that states military veterans do not pay fees typically associated with the startup of a business in sales outside of alcohol.

**Mark Whitlow:** Mr. Whitlow disagreed with the Bureau's response regarding the expiration of testing results of cannabis and cannabis products and stated that testing results do not have a timeframe and cannot expire.

**Public Commenter:** Commenter stated that manufacturers should be responsible for packaging products in child-resistant packaging, distributors and manufacturers should be able to put an initial label on products prior to the testing being completed, and medical cannabis retailers be able to deduct the amount of tax paid in advance on donated cannabis to compassionate care programs.

**Joseph Airone:** Mr. Airone expressed concern that none of the Committee's recommendations on compassionate care programs was addressed in the licensing authorities' regulations and stated that this topic is very important, and many patients' lives are on the line and in desperate need of free cannabis.

**Scott Tyler:** Mr. Tyler asked that more compassion should be involved in the cannabis industry and there should be more discussion about helping disadvantaged groups have adequate access to medication.

**Neil Yarborough:** Mr. Yarborough asked the Committee to think about how compassionate care programs have helped veterans like himself function in society and how detrimental it will be if compassionate care programs go away.

**Teri:** Commented that the requirement that a licensed retailer's address be printed on a receipt poses a safety concern and would like the regulations to be changed to only have the license number or the general area that the business is located.

**Sabrina Fendrick:** Ms. Fendrick agreed with earlier comments suggesting that child-resistant packaging be handled at the manufacturing level and not in the exit bags. She also added that retailers should be able to buy samples of products they are interested in selling.

**Troy Lawrence:** Mr. Lawrence suggested that the regulations regarding delivery be more simple and transparent and allow delivery to be more accessible to the patients who need medication.

**Adam Villarreal:** Mr. Villarreal commented that the regulations for delivery are more stringent than regulations for opioid medications.

**Hannah Nelson:** Ms. Nelson agreed with committee members' comments that there have been significant changes since the recommendations were drafted in March and suggested that there be some way for the Committee to integrate more current information into the Committee's public comment.

**Ellen Komp:** Ms. Komp expressed concern that a lot of the Committee's recommendations, especially those related to microbusinesses, were not addressed in the readopted emergency regulations or the proposed regulations as well as the raising of dosage limits and recommendations drafted by the public health and youth subcommittee.

**Max Mikalonis:** Mr. Mikalonis requested that the Committee have future discussions about delivery vehicle requirements such as vehicle weight, two-wheel delivery, and licensee premises

addresses being listed on delivery receipts. He also requested that the Committee look at one of the cultivation recommendations regarding light deprivation facilities that was addressed in CDFA's regulations but with the opposite intent.

**Pearl Martin:** Ms. Martin emphasized the importance of retailers being allowed to give free samples to customers. She suggested that the state marijuana identification card requirement for free cannabis goods be removed and agreed with other commenters that child-resistant packaging should be handled at the manufacturing level and not need to be placed in child-resistant exit packaging.

**Susan Tibbin:** Ms. Tibbin expressed concern that not enough was being done for small operators in the northern counties in relation to microbusinesses and reiterated the need for a home business license.

**Trish Kamalia:** Ms. Kamalia agreed with the recommendation that child-resistant packaging be handled at the manufacturing level and not at the retail level with exit bags.

**John Brower:** Mr. Brower requested the Committee review the cultivation recommendation and the definition of "outdoor" and stated that the discussion wrongly included light deprivation as an outdoor cultivation type.

**Rich Miller:** Mr. Miller thanked the Committee for their hard work and stated that the exit packaging requirement is an environmental problem and stated that labeling should also be handled at the manufacturing level.

**Matthew Pasquale:** Mr. Pasquale commented that free samples should be allowed as well as compassion programs. He suggested that delivery hours should be changed to 11:00 PM or 12:00 AM for people who do not work a regular nine-to-five shift. He also added that exit packaging should be removed and that distributors and manufacturers handle all labeling and packaging.

**Deanna Garcia:** Ms. Garcia agreed with other commenters that child-resistant exit packaging at the retail level is unnecessary and stated that manufactured cannabis products should be in child-resistant packaging but cannabis flower should not. She also added that the state marijuana identification card requirement for compassion programs should be removed and a doctor's recommendation should be sufficient.

**Ron Richards:** Mr. Richards expressed support for the exit bag requirement at the retail level and stated that businesses can use environmentally-friendly, reusable exit packaging which would help cut down on waste and environmental impact.

**Paul Hansbury:** Mr. Hansbury stated that, regarding outdoor cultivation, the canopy should be defined by the drip-line of the plant, not the plant count. He added that the cultivation tax for compassionate use should be able to be refunded like the refunds for the excise and sales taxes and requested clarification of the S-type license and storage only center license would be allowed in a microbusiness. He also commented that there needs to be consideration of legacy operators when discussing social equity programs, at least 24-hour notice from licensing authorities prior to inspections, and delivery employees be allowed to have extra inventory in the vehicle in case a new order comes in while they are away from the licensed premises. He also requested the Committee review the recommendation that security measures be handled by local authorities rather than the State.

**Ray Purs:** Mr. Purs commented that some local jurisdictions are adhering to Business and Professions Code section 16102 that states military veterans do not pay fees typically associated with the startup of a business in sales outside of alcohol and wanted to know if the State will be adhering to that section as well. He also suggested that a state program be created where

cannabis companies making a large profit are linked with social equity applicants to provide funding.

**Asst. Chief Counsel Colson** reminded commenters that the Committee is hearing public comments on the Chair's report and the status of the Committee's approved recommendations and that there will be time for public comments on items that appear later on the agenda as well as a public comment period for items not listed on the agenda.

**Susan Tibbin:** Ms. Tibbin reiterated that the definition of canopy needs to be changed from plant count to the drip line of the mature cannabis plant. She also agreed with earlier comments that legacy farmers need to be included in the category of social equity applicants.

**Nidia Holmes:** Ms. Holmes expressed support for compassion programs that help patients receive the medication they need and commented that customers need to be able to sample products at the retailer.

**Caity Maple:** Ms. Maple agreed with earlier comments suggesting that the delivery hours be extended to accommodate individuals who do not work a regular nine-to-five shift and agreed that premises addresses should not be included on delivery receipts for safety reasons.

**Joe Lindsey:** Mr. Lindsey expressed concern about the increase in value amount that a delivery employee can have during delivery from \$3,000 to \$10,000 and stated that this is a security issue that now makes delivery drivers and vehicles targets for theft and robbery.

**Mark Carrillo:** Mr. Carrillo thanked the Committee for the work and asked that they continue to keep pushing these issues to the licensing authorities. He added that the delivery hours as they stand right now do not work as there are people who wake up in the middle of the night that need medication and are not able to access it.

**Paul Hansbury:** Mr. Hansbury asked why the renewal fees for an annual license are the same as the original license fee and suggested that if there are no structural modifications from the previous year, the licensing fees be reduced by 50 percent.

## **5. Discussion and Possible Action regarding Submission of the Advisory Committee's Adopted Recommendations as Public Comment on the Proposed Regulations of the Bureau of Cannabis Control, California Department of Food and Agriculture, and California Department of Public Health**

**Committee Member Huffman** motioned the Committee to submit all the adopted recommendations as a public comment to the Bureau. **Committee Member Cermak** seconded the motion

**Asst. Chief Counsel Colson** asked **Committee Member Huffman** if she meant submitting to just the Bureau or to all three licensing authorities. **Committee Member Huffman** stated that the recommendations should be submitted to all three licensing authorities and put on the official record.

### Committee Comments:

**Committee Member Lynch** commented that the Committee has heard from numerous individuals about the importance of social equity, compassionate use, and public health and that these topics should be revisited and addressed to the full extent of the Committee's recommendations.

**Committee Member Nevedal** requested clarification if the recommendations would be submitted to all three licensing authorities. **Chair Rahn** answered that they would.

**Committee Member Cermak** requested clarification if all the subcommittees' recommendations will be submitted or only those that were approved by the full advisory committee. **Committee Member Huffman** responded that all the subcommittees' recommendations should be submitted even if they were not voted on by the full advisory committee.

**Committee Member Lynch** agreed that it would be a valuable submission to include all the subcommittees' recommendations but also noted that is different than what the Committee has already voted on and is compiled in the Chair's report.

**Committee Member Ferro** agreed with **Committee Member Lynch** and clarified that the recommendations that are before the Committee are those that are regulatory changes, not statutory changes, and emphasized the importance of submitting the regulatory recommendations to the licensing authorities for review.

**Chair Rahn** clarified that there is a difference between the recommendations voted on in the subcommittees and the recommendations that were approved by the full committee and the Chair's report consists of recommendations that were presented and voted on by the full committee. He repeated that if there were recommendations that should be included but did not get presented to or approved by the full committee, members can submit those recommendations as individual comments on behalf of themselves or their organizations.

**Committee Member Ferro** commented that the Committee did not have the opportunity to hear all the public testimonies submitted to each subcommittee and suggested that recommendations which were not heard by the full committee but were adopted by the subcommittees be included in the Committee's public comment to the licensing authorities.

**Committee Member Huffman** agreed with **Committee Member Ferro** and added that there was no harm in adding in recommendations that the subcommittees drafted but that the Committee did not have a chance to hear or vote on.

**Committee Member Cermak** commented that, regarding the public health subcommittee's recommendations, there were several that were statutory and while one of the recommendations was voted on by the Committee, the others were not because time was limited for each subcommittee to present their recommendations. He added that he would like a distinction to be made between recommendations that were adopted by the Committee and recommendations that the Committee did not hear but were voted on by the subcommittees.

**Asst. Chief Counsel Colson** clarified that the agenda item is discussing the regulatory recommendations that were adopted by the Committee and stated that the Committee heard all the regulatory recommendations and the ones that were not adopted have already been determined by the Committee to not be appropriate to put forward to the licensing authorities. She added that the Committee approved to combine all statutory and non-regulatory recommendations into a letter to the legislature written by the committee chair.

**Committee Member Bulbulyan** commented that the focus was shifted to regulatory recommendations because it was determined that the Committee could have more influence over the regulatory recommendations which the licensing authorities have the capability to change but also agreed that it would not hurt to submit all the recommendations including the ones that the subcommittees approved but were not heard by the full committee.

**Chair Rahn** responded that the point of adopting the recommendations by the full committee was to narrow down the recommendations to those that were collectively agreed upon by the twenty-two members on the Committee. He reiterated that if there were recommendations that

the Committee did not approve that members feel should be submitted to the licensing authorities, they can still do so as an individual or a representative of their organization.

**Committee Member Huffman** clarified that she was not suggesting that recommendations that the Committee reviewed and did not approve be included in the public comment but rather the recommendations that the Committee did not have the chance to review and vote on.

**Chair Rahn** responded and stated that the only recommendations that the Committee did not review were ones that were not regulatory or statutory in nature and the Committee approved that those recommendations be sent in a separate chair's letter to the legislature.

**Committee Member Cermak** stated that there was a compassionate use recommendation which was statutory that the Committee did vote on and approve.

**Asst. Chief Counsel Colson** clarified that the Committee did vote to handle the statutory and non-regulatory recommendations separately in a letter to the legislature drafted by the chair and vice-chair.

**Chair Rahn** commented that the Committee is trying to affect the items that they have the most influence over, which are regulatory recommendations. He added that all the statutory recommendations the subcommittees drafted will be included in the letter to the legislature and that only recommendations that the Committee voted to not move forward will not be included in the public comment to the licensing authorities.

**Committee Member Huffman** amended her motion to exclude recommendations that were reviewed by the Committee and not approved. **Asst. Chief Counsel Colson** requested clarification if the motion was to now be that all the adopted recommendations be submitted and that they be submitted to all three of the licensing authorities. **Committee Member Huffman** replied that was correct.

**Committee Member Cermak** seconded the amended motion.

#### Public Comment: 3 Comments

**Paul Hansbury:** Mr. Hansbury commented that the Committee needs to consider the interpretation of these regulations and statutes and referred to the recommendation regarding microbusinesses and security measures, stating that the recommendation did not get enough votes because there was too much confusion surrounding the definition of a microbusiness and requests that the recommendation be reviewed again now that there is more understanding of what a microbusiness is.

**Public Commenter:** Requested that the chair letter to legislature be made public prior to the Committee submitting it.

**Richard Miller:** Mr. Miller stated that when Proposition 64 was passed, no one realized there would be three separate state agencies regulating commercial cannabis businesses and that it was imperative that the advisory board and its comments should reflect the will of the people and be submitted to all the agencies involved.

#### Additional Committee Comments: 3 Comments

**Committee Member Cermak** asked if the public recommendation stating that the licensing authorities create a special state and local licensing process for compassionate use programs was not addressed in the current or proposed regulations because it was statutory. **Chair Rahn** replied that there could be a variety of reasons why an adopted recommendation was not addressed and stated that submitting the adopted recommendations as a public comment will require the licensing authorities to provide a response to each recommendation listed.

**Asst. Chief Counsel Colson** commented that all three licensing authorities provided a document called the Initial Statement of Reasons (ISOR) in the proposed regulations. She also added that for the emergency regulations package, a Finding of Emergency document was included as well. She clarified that both documents explain the regulatory language and why the regulatory language was needed, which could answer some of the Committee's questions about why the licensing authorities did or did not address certain recommendations. Ms. Colson added that once a recommendation comes before the licensing authorities through the public comment period, the licensing authorities will specifically respond to each comment and recommendation as part of the rulemaking process for the proposed regulations.

Roll call vote was taken, the amended motion to submit all the adopted recommendations as a public comment to all three licensing authorities passed on a 18-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

## 8. Discussion and Possible Action on the Advisory Committee's Annual Report

**Deputy Chief Ramil** explained that in Business and Professions Code section 26014, subsection (c), the Committee is required to “publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the licensing authorities.”

Committee Comments: 32 Comments

**Committee Member Cermak** asked who would be responsible for writing the annual report. **Chair Rahn** responded that he and **Vice-Chair Todd** would be responsible for working with Bureau staff to draft the report.

**Committee Member Cermak** asked if there will be an opportunity for the committee members to provide dissenting opinions to the report.

**Chair Rahn** responded that the annual report will be a collaborative effort between all committee members and Bureau staff and proposed the idea of creating a subcommittee of members to draft the annual report and present it to the Committee at the next scheduled meeting.

**Asst. Chief Counsel Colson** responded and clarified that if a subcommittee is created with more than two committee members on it, that meeting will be subject to Bagley-Keene rules meaning that there will need to be a 10-day notice.

**Committee Member Nevedal** asked if it would be easier if each subcommittee chair put together a report for each subcommittee to help **Chair Rahn** and **Vice-Chair Todd** draft the annual report. **Chair Rahn** agreed with **Committee Member Nevedal** and stated that the report would not be a reiteration of recommendations from the subcommittees but a summary of all the discussions they have had.

**Committee Member Huffman** commented that, in the annual report, she would like the Committee to address matters that may fall out of the scope of the advisory committee and out of the purview of regulatory processes. She also stated that she believed three licensing authorities is too many and they should be consolidated into one state agency.

**Chair Rahn** agreed with **Committee Member Huffman** and stated that the annual report should not just contain what the Committee has done in the past year but also make recommendations about the role of the Committee moving forward and how the Committee can continue to advise the licensing authorities on matters such as social equity and compassionate use.

**Committee Member Bulbulyan** asked if another advisory committee meeting should be scheduled and include only one agenda item to discuss all things cannabis in California. **Chair Rahn** responded that another committee meeting cannot be created but he was not opposed to the idea of creating a subcommittee to meet regarding the “big picture” items that are germane to the annual report.

**Asst. Chief Counsel Colson** clarified that if the subcommittee is subject to Bagley-Keene rules, the agenda item will still need to be specific enough that the public will be on notice about the topics that will be discussed. **Committee Member Bulbulyan** asked if “State of the Industry” was specific enough. **Asst. Chief Counsel Colson** responded that would not give everyone sufficient information to determine whether the subcommittee would be talking about items that matter to them.

**Committee Member Stephenson** agreed with **Committee Member Huffman** and **Committee Member Bulbulyan** and added that he has found it frustrating that the issue of banking for commercial cannabis businesses has not been addressed and that maybe the Committee needs to be the one to start moving these issues forward.

**Committee Member Huffman** suggested that a list of specific issues should be created that includes taxation, a statewide equity program, and any other issues that members feel need to be discussed on a broader scale.

**Chair Rahn** suggested that the annual report subcommittee that will be created today draft the report and present it at the next committee meeting in September and then present the final report at the November committee meeting.

**Committee Member Wu** expressed concern that the Committee spends too much time on statutory issues which are outside of their ability to influence and commented that there should be more focus on issues which the Committee can affect.

**Committee Member Bulbulyan** commented that he believed that the purpose of the Committee was to advise the three licensing authorities on best practices and the implications of the regulations they create, not necessarily on the language of the regulations itself.

**Committee Member Nevedal** responded to **Committee Member Bulbulyan** and stated that there were certain things that were discussed in the subcommittees and that the Committee has heard from public commenters numerous times about compassion care programs, social equity, help for small farmers, and that while there is legislation in the works for some of these issues, the Committee is not aware or is not discussing these matters to the extent that is needed.

**Committee Member Cermak** stated that the Committee has the capacity to advocate for statutory changes where the licensing authorities do not.

**Chair Rahn** asked the Committee if a subcommittee be created to draft the annual report and that the chairs of each subcommittee bring a summary report to the September committee meeting to be included in the final annual report.

**Committee Member Ferro** requested clarification on how detailed the subcommittee chairs' reports needed to be. **Chair Rahn** responded that the reports should not be too long, maybe two to five pages maximum.

**Committee Member Bulbulyan** requested clarification on the timeline for the annual report. **Chair Rahn** answered that the subcommittee chairs will need to have their reports ready by the September advisory committee meeting and the annual report subcommittee will present their draft of the annual report at the September advisory meeting as well. The annual report subcommittee will then incorporate the chairs' reports into the final draft of the annual report and present that at the November advisory meeting. The annual report will then be submitted January 1, 2019.

**Committee Member Nevedal** asked if it would be easier to just resubmit the chairs' reports that were drafted after each subcommittee hearing instead of creating a new report. **Chair Rahn** responded that the chairs could copy and paste their earlier reports if they wanted to.

**Committee Member Huffman** motioned that the subcommittee chairs submit their summary reports to the Committee at the next advisory committee meeting and then the chair appoint the annual report subcommittee. **Committee Member Sweeney** seconded the motion.

**Committee Member Bulbulyan** requested clarification if the annual report would just be limited to the subcommittee recommendations that were adopted by the Committee or contain the full reports from each subcommittee. **Chair Rahn** clarified that the annual report subcommittee will take all the chairs' summary reports and incorporate them along with information from subsequent meetings.

Public Comment: 2 Comments

**Public Commenter:** Requested that a separate subcommittee be created to address broader issues that the subcommittees missed.

**Public Commenter:** Suggested that the Committee submit the annual report to the legislature and all other government agencies involved in the cannabis industry.

Roll call vote was taken, the motion that the subcommittee chairs submit their summary reports to the Committee at the next advisory committee meeting and that the chair appoint the annual report subcommittee passed on a 18-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

**Chair Rahn** called for a lunch break at 12:05PM. The Committee meeting was called back into session at approximately 1:00 PM.

## **6. Discussion and Possible Action on Section 5416 (d) of the Bureau of Cannabis Control's Proposed Regulations Pertaining to Delivery**

The Committee reviewed section 5416 (d) of the Bureau's proposed regulations which states, "A delivery employee may deliver to any jurisdiction within the State of California."

### Committee Comments:

**Committee Member Woolsey** commented that the City of San Jose opposes section 5416 (d) because it allows delivery operators to bypass any local regulations regarding cannabis delivery businesses. He added that while it is unfortunate that individuals live in a cities and counties where delivery has been outright banned, Proposition 64 did allow for local jurisdictions to have control over how many and what type of businesses they will allow in their limits.

**Committee Member Nevedal** asked if there is any other product that is currently prohibited from being delivered in California and expressed concern for areas that are "cannabis and medical islands" where patients and consumers do not have access because deliveries are banned in their cities and counties and are forced to turn to the illicit market.

**Committee Member Yu** agreed with **Committee Member Nevedal** and added that the intent and will of Proposition 64 was to ensure that there's access to cannabis for adults and medical patients.

**Committee Member Heidelbach-Teramoto** agreed with **Committee Member Yu** and **Committee Member Nevedal** and added that some consumers are intimidated and wary of entering a storefront dispensary and that delivery services provide them another option to buy from legal businesses versus the illicit market.

**Committee Member Woolsey** responded to all three previous speakers and stated that Proposition 64 does want the public to have access to cannabis, subject to local control, and that cities and counties should work toward developing a delivery program in their jurisdictions without the State enacting regulations that bypass local control.

**Committee Member Bulbulyan** commented that local jurisdictions are causing a bigger bottleneck in the industry due to their moving slowly regarding allowing businesses and added that if delivery businesses that are licensed by the local jurisdiction and the State will have oversight by the local jurisdiction where their permit is located so there really is no public safety issue with allowing licensed deliveries to deliver in any jurisdiction.

**Committee Member Cermak** asked if there will be lawsuits if the Bureau removes local control as it relates to delivery and why it is okay to have local control for storefront dispensaries but not for delivery businesses. **Committee Member Bulbulyan** responded that the issue of local control is not on the business aspect because there is oversight for the delivery businesses by the local jurisdiction where the permit was issued. The issue is if local jurisdictions have control over whether their residents can accept delivery of cannabis products.

**Committee Member Ferro** commented that the bigger problem is getting the local jurisdictions that have banned commercial cannabis activity to start allowing businesses within their cities, counties, and towns and adds that if elected officials in these jurisdictions are not allowing businesses to operate as Proposition 64 allows, they should be voted out by the residents.

**Committee Member Huffman** commented that there are some issues, like delivery, that would be better handled at the State level versus the local level and suggested that there be some form of state issued permit that allows operating instead of having to apply for a permit at the local level and then the state level.

**Committee Member Stephenson** commented that reluctance from local jurisdictions to allow storefront dispensaries comes from a need to protect their community's image and allowing deliveries helps to combat that.

**Committee Member Nevedal** stated that the topic of delivery is not a local control issue because these businesses will already be licensed at the local and state level and if licensed delivery services cannot use public roads to deliver legal cannabis products to consumers, it sets a dangerous precedent for transporting of cannabis goods, not just for delivery employees but for licensed distributors as well.

**Committee Member Bulbulyan** commented that section 5416 (d) is favorable to jurisdictions that do not want any businesses operating in their limits because it allows a resident to still have access to cannabis and cannabis products from neighboring jurisdictions while allowing city officials to not have any cannabis businesses operating in their limits.

**Committee Member Heidelbach-Teramoto** agreed with **Committee Member Nevedal** regarding the implications of restricting delivery and stated that she has heard of instances where distributors transporting cannabis goods were pulled over and arrested because they were moving through jurisdictions where delivery was not allowed.

**Committee Member Ferro** agreed with **Committee Member Heidelbach-Teramoto** and added that a lot of cities do not have the economic ability to research and formulate their own guidelines for cannabis businesses and are waiting for some guidance from the State.

**Committee Member Woolsey** agreed with **Committee Member Bulbulyan** that allowing delivery services would benefit the local jurisdictions that do not want to have cannabis businesses in their communities without feeling as if they have deprived their residents of access to cannabis.

**Chair Rahn** commented that the issue with this section boils down to local control and stated that he and **Committee Member Woolsey**, being two representatives of local government, are in the minority when it comes to the viewpoint of local control and local authority.

**Committee Member Woolsey** agreed with **Chair Rahn** and stated that he believes everyone should have access, but Proposition 64 does grant local jurisdictions the power to limit or ban commercial cannabis activity in their community and if residents of those communities do not agree with the local authority, they either need to vote those individuals out or move to a jurisdiction that does allow commercial cannabis activity.

**Committee Member Peck** commented that tribal members on reservations or living on fee land held in trust by the federal government do not have access to cannabis but are paying taxes for the land they live on.

**Committee Member Huffman** commented that if a jurisdiction does not want commercial cannabis businesses in their communities, that is their choice, but they should not be able to restrict their residents' access to it from jurisdictions that are allowing businesses. She adds that this is a human rights issue, not a local control issue, because people are being denied access to medication that they need.

**Committee Member Stephenson** agreed with **Committee Member Huffman** and expressed concern that local jurisdictions want to restrict consumers ability to purchase a commodity that is licensed and recognized by the State of California.

**Committee Member Bulbulyan** commented that there is no difference if a single individual went to a neighboring jurisdiction that allows commercial cannabis business, bought product, and brought it home and a delivery service doing the same thing. He added that there were more

pressing issues to handle and that the local jurisdictions don't have the right to restrict access to their residents.

**Chair Rahn** commented that allowing delivery in any jurisdiction is a public safety issue just as any other high-risk delivery or high-risk occupation where individuals are driving around with large sums of money are targets for crime. He added that if the legislature passes a bill that would allow deliveries in any jurisdiction, local authorities would enact the law, but the State should not preemptively try to remove local control that was granted by the legislature through Proposition 64.

**Committee Member Ferro** commented that a lot of the cities whose citizens were overwhelmingly in support of Proposition 64 are still banning all commercial cannabis activities and this discussion would not be happening if more of those cities who were in support of Proposition 64 would allow commercial cannabis businesses to operate.

**Committee Member Stephenson** suggested that if a company was delivering product in a jurisdiction that does not allow commercial cannabis activity, restrict the number of orders that can be delivered at one time.

**Committee Member Lynch** commented that there is an imbalance between local control and individuals' right to access and that the intent of voters when passing Proposition 64 was not to restrict access to those who need it.

**Committee Member Woolsey** commented that if tax revenues only go to the city where the delivery originated and a delivery vehicle is robbed while delivering in a jurisdiction that has banned delivery, it becomes that jurisdiction's public safety problem and they are not getting any of the tax revenue from the delivery sales. He added that Proposition 64 was passed with the knowledge that there will be two licensure processes: the local level and the State level and that it's interesting that the public wants a statewide program when it is beneficial to them and a local-specific program when it is beneficial to them.

**Committee Member Woolsey** motioned for the Committee to recommend to all licensing authorities that section 5416 (d) be removed from the Bureau's regulations. **Chair Rahn** seconded the motion.

**Chair Rahn** commented that he believes the discussion of allowing deliveries in all jurisdictions should be left up to the legislature to handle and that allowing deliveries will unfortunately result in some cities seeking litigation which is a waste of resources and time.

**Committee Member Cermak** commented that he is convinced by both sides and asked if **Committee Member Woolsey** would accept a friendly amendment to his motion which would exempt delivery of medical cannabis from being banned by local jurisdictions.

**Committee Member Woolsey** answered that he would not accept the friendly amendment and stated that local jurisdictions should be able to determine what happens in their limits regarding medical and recreational commercial cannabis activity.

**Committee Member Bulbulyan** stated that there was no difference between a delivery driver stopping in a jurisdiction for gas or something to eat and a delivery driver completing a delivery. The commercial cannabis activity occurs in another jurisdiction and all that is happening during the delivery is a drop off. He added that many voters did not really know how to participate or get involved when Proposition 64 was introduced so they did not understand what was going to happen. Now that they have had a chance to see the regulations in action, they can raise these issues to the authorities' attention.

**Committee Member Huffman** motioned for the Committee to support section 5416 (d) of the Bureau's proposed regulations. **Chair Rahn** asked for clarification if a second motion can be

made if there is already a motion and a second on the table. **Asst. Chief Counsel Colson** clarified that it would be up to the committee chair how to proceed.

**Committee Member Woolsey** asked if there was a way to have public comment on both his original motion and **Committee Member Huffman's** substitute motion. **Committee Member Huffman** responded that the substitute motion would need to be defeated, then the Committee could discuss the original motion.

**Committee Member Bulbulyan** seconded **Committee Member Huffman's** substitute motion. **Committee Member Huffman** commented that the issue is not a struggle of power between local jurisdictions and the voters of Proposition 64, but rather the issue of human rights and ignoring the will of the people who voted in favor of Proposition 64 for the will of proponents such as League of Cities or the police chiefs of the various jurisdictions.

**Chair Rahn** disagreed with **Committee Member Huffman** and added that local control is about representing the people. He stated that as an elected official, he is responsible for representing the will of those citizens who elected him and he is aware that other local jurisdictions made decisions without polling their communities, but some did and the decisions they make reflect what their residents wanted.

**Committee Member Huffman** responded that the people who **Chair Rahn** represent might not represent the voters who voted for Proposition 64. **Chair Rahn** agreed and stated that although his city did vote to pass Proposition 64, it was not by a large majority, which places him and other elected officials in a precarious situation on trying to balance and fairly represent all the needs of their residents.

**Chair Rahn** commented that the Committee is here in an advisory capacity to the three licensing authorities and was purposefully constructed to include many different perspectives on issues. He emphasized that this advisory committee meeting is different than the public regulatory hearings the licensing authorities are currently conducting and that the public should understand that the public comments made here are not being recorded as part of the formal rulemaking process.

#### Public Comment:

**Rich Miller:** Mr. Miller commented that the delivery is vital for patients to access the medication they need and stated that delivery should be controlled by the city where they are located not where the delivery is made.

**Caity Maple:** Ms. Maple commented that over 1300 letters in support of section 5416 (d) have been sent to the Bureau and stated that local jurisdictions did not have the authority to ban deliveries in their cities and that the continuance of banning deliveries will only drive consumers to the illicit market.

**Public Commenter:** Suggested that if a dispensary delivers outside of the city where they are located, the city where the delivery occurs receives the tax revenue. Also added that delivery locations and routes are recorded by GPS tracking devices so there would not be an issue of a driver being on a route that is not on the manifest.

**Amanda Naprawa:** Ms. Naprawa commented that changes to State law should not be handled at the regulatory level and should be left up to the legislature.

**Susan Tibbin:** Ms. Tibbin commented that the citizens of the State of California who passed Proposition 64 should have ready access to their medication.

**Troy Lawrence:** Mr. Lawrence commented that local control is zoning issues, not prohibition or restriction of access to medication.

**Ellen Komp:** Ms. Komp agreed that the issue of delivery does not need a legislative fix and can be handled through regulations. She repeated earlier comments stating that local control is over land use not access.

**Adam Villarreal:** Mr. Villarreal urged the Committee to understand that this issue is not about local control but about medical patients' ability to access medication and that no other commodity is regulated as strictly as cannabis.

**Andrew Antwi:** Mr. Antwi, on behalf of the City of Beverly Hills, opposed section 5416 (d) of the Bureau's proposed regulations and stated that this section directly contradicts the Medicinal and Adult Use Cannabis Regulatory and Safety Act (MACURSA) and would be challenged legally if not removed.

**Max Mikalonis:** Mr. Mikalonis expressed support for section 5416 (d) and stated that local jurisdictions that have banned deliveries are infringing on the rights of individuals under Proposition 64 to access cannabis.

**Jackie McGowan:** Ms. McGowan commented that she lives in Sacramento and drives two hours to Oakland once a month to buy from a dispensary and that while she is lucky that she can make that trip, others are not and depend on delivery services to have access to their medication.

**Anne Kelson:** Ms. Kelson commented that the State already has guidelines and rules for delivery services, so safeguards are in place even if local jurisdictions have not had a chance to create their own.

**Joseph Airone:** Mr. Airone commented that this is an issue of patients' rights and patients' access to medication and that local jurisdictions banning deliveries was not the original intention of the passage of Proposition 64.

**Dan Georgatos:** Mr. Georgatos suggested that an additional sentence be added to section 5416 (d) that says if delivering to a jurisdiction that regulates and permits commercial cannabis delivery, then that commercial cannabis licensee must comply with that local ordinance.

**Michelle Disitzer:** Ms. Disitzer commented that patients need to be able to access any brand, no matter how small or large.

**Public Commenter:** Stated that MAUCRSA granted local jurisdictions control over the origin of the delivery but not where delivery travels to or ends in. Local authorities should control commercial businesses, not consumer access.

**Dale Schafer:** Mr. Schafer commented that there is already a statute in place for immunity to drivers while delivering on public highways and that could work for deliveries across the state. He adds that if authorities cannot make this work, the illicit market will continue to thrive.

**Eliza Maroney:** Ms. Maroney pointed out that for some patients, it is not just physical limitations but also fiscal limitations that may hinder their ability to access medication if their city does not allow delivery.

**Sean Kiernan:** Mr. Kiernan commented that entities like the League of Cities who are fighting to restrict access are doing so at the expense of veterans who have served this country and are in desperate need of the medication.

**Paul Hansbury:** Mr. Hansbury commented that allowing licensed delivery services to operate does not take away control from local jurisdictions because these entities will be regulated by the city where they are located and by the State.

**Public Commenter:** Stated that veterans make up seven percent of the national population but account for twenty percent of national suicide rate and that if access to cannabis is restricted those numbers will continue to rise.

**Public Commenter:** Expressed concern that the Bureau's website as well as California Department of Food and Agriculture's (CDFA) website does not have a reliable way for investors to find licensing businesses.

Additional Committee Comments:

**Committee Member Cermak** stated that he will be abstaining from voting because he has not heard a compromise that satisfies both local control concerns and compassionate use concerns.

**Committee Member Bulbulyan** commented that local control should be over setting up businesses and collecting tax revenue and allowing delivery across jurisdictions does not take away local control.

**Committee Member Stephenson** commented that if cities did not want to allow deliveries, they could levy a tax amount that they see fit as a compromise.

**Committee Member Huffman** commented that sometimes a compromise cannot be reached and this is one of those situations. She added this is an issue of helping people who are in need and urged the Committee to support the section 5416 (d) as written in the Bureau's proposed regulations.

**Asst. Chief Counsel Colson** requested clarification that the motion on the table was to recommend to the Bureau to keep section 5416 (d) as written. **Committee Member Huffman** responded that was correct.

Roll call vote was taken, the motion to recommend to the Bureau to keep section 5416 (d) of the proposed regulations passed on a 13-4 vote. 1 committee member abstained.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak		✓			
Matt Clifford			✓		
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn		✓			
Keith Stephenson	✓				

James Sweeney	✓
Tamar Todd	✓
Helena Williams	✓
David Woolsey	✓
Ben Wu	✓
Beverly Yu	✓

## 7. Discussion and Possible Action on Section 5500 of the Bureau of Cannabis Control's Proposed Regulations Pertaining to Microbusiness

### Committee Comments:

**Committee Member Nevedal** commented that microbusinesses were intended to be a pathway for small businesses, legacy farmers, and family businesses to enter into the legal market but the current structure of microbusinesses does not benefit the mentioned entities as well as it should.

**Chair Rahn** commented on the difficulty in establishing what a microbusiness is and how the statute can be interpreted in different ways which causes agencies like the Bureau to have to implement the intent which may be different from what was originally thought.

**Committee Member Cermak** asked if the microbusiness subcommittee has any suggestions on how to address these issues. **Committee Member Clifford** responded that the issue comes from imprecise language in the statute which has a cap of 10,000 square feet for cultivation activities in a microbusiness but no limits on manufacturing, retail, or distribution which is disadvantageous for small business owners.

**Committee Member Nevedal** agreed with **Committee Member Clifford** and stated that the original intention of Proposition 64 was not to be a catch-all for vertical integration.

**Committee Member Cermak** moved to recommend that the Bureau re-look at the regulations in order better serve what the Committee believed to be the original function of serving the small farmers and providing them access to the market. **Committee Member Clifford** seconded the motion.

**Committee Member Bulbulyan** requested clarification on what the motion entails. **Committee Member Cermak** responded that the purpose of the motion is to advise the Bureau to re-work regulations to favor the small farmer. **Committee Member Sweeney** asked if that is inclusive of home businesses. **Committee Member Cermak** responded that would be up to the Committee to decide.

**Committee Member Nevedal** commented that the Bureau's readopted emergency regulations prohibited cannabis business from being in private residences which also hindered existing business that have been operating from their homes for a long time.

**Committee Member Bulbulyan** commented that as it stands now, there is no difference between a small farmer getting a microbusiness license and a larger business becoming a microbusiness, and in some cases, a microbusiness license is not advantageous because of the restrictions on growth.

**Committee Member Nevedal** responded that businesses will need to decide if a microbusiness is the most efficient model and that the microbusiness license itself was meant more for the small cultivators.

**Committee Member Bulbulyan** commented that instead of putting restrictions on growth and profitability for all microbusinesses, focus should be on helping microbusinesses that include cultivation in their plans as a way of helping small farmers.

Public Comments:

**Paul Hansbury:** Mr. Hansbury repeated the need for a new home business license.

**Susan Tibbin:** Ms. Tibbin echoed Mr. Hansbury's comments regarding the need for a home business license and stated that California is a very large and diverse state and one size does not fit all when it comes to regulations.

**Hannah Nelson:** Ms. Nelson stated that for rural citizens trying to obtain a microbusiness license, finding a location that will meet the local land-use rules for their activities is difficult and suggested that microbusiness be allowed to use shared facilities or have multiple locations for the various activities.

**Public Commenter:** Commented that the microbusiness license was intended to create a level playing field for small farmers, not for corporations and suggested that regulators should follow the craft beer model in the liquor industry.

**Public Commenter:** Commented that the microbusiness license, with some work, could be the "California brand" someday and is a useful tool in bringing pre-existing operators into compliance and suggested setting a cap on growth of all activities under a microbusiness and calling it something else if a business exceeds that cap.

**Paul Hansbury:** Mr. Hansbury stated that the cannabis industry is not new, but newly legalized and that the regulatory framework should be for the established industry not the other way around. He repeated his earlier comments about the need for a separate home business license.

**Ross Gordon:** Mr. Gordon commented that the microbusiness licenses that have been issued have been to urban areas and that there needs to be access for rural cultivators to enter the market. He urged the Committee to re-look at the microbusiness subcommittee recommendation that stated that local jurisdictions could opt-out of security requirements mandated by the State.

**Tim Blake:** Mr. Blake echoed earlier comments that there needs to be more help for the smaller businesses to enter the legal market.

**Hannah Nelson:** Ms. Nelson suggested a distinction between a microbusiness with self-distribution versus a microbusiness with full distribution services, more tiers for the microbusiness fees, shared facilities tied to income caps, and removing insurance requirements for self-distribution businesses.

**Susan Tibbin:** Ms. Tibbin echoed earlier comments regarding the need for a home business license.

**Paul Hansbury:** Mr. Hansbury repeated earlier comments about the need for a home business license and stated that the license will bring back the sense of community in rural towns and cities.

**John Brower:** Suggested that the language for microbusiness be more specific to not give the idea that individuals are trying to operate large scale businesses from their kitchen tables.

**Paul Hansbury:** Mr. Hansbury stated that the current regulations in effect are hurting communities that have operated out of their homes for a long time.

Additional Committee Comments: 2 Comments

**Committee Member Ferro** asked for the motion to be repeated. **Deputy Chief Ramil** repeated that the motion was to advise the Bureau to re-work the regulations around microbusiness to favor small farmers, which was the original intent of Proposition 64.

Committee members **Huffman, Lynch, and Peck** left the meeting and quorum was maintained. Roll call vote was taken, the motion to recommend advising the Bureau to re-work the regulations around microbusiness to favor small farmers which was the original intent of 64 passed on a 14-0 vote. 1 committee member abstained.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan			✓		
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman			✓		
Catherine Jacobson			✓		
Arnold Leff			✓		
Kristin Lynch			✓		
Kristin Nevedal	✓				
Joe Nicchitta			✓		
LaVonne Peck			✓		
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

**Chair Rahn** motioned to have the microbusiness subcommittee reconvene in the future to discuss issues surrounding microbusiness and report back to the Committee at the next meeting. **Committee Member Nevedal** seconded the motion.

**Chair Rahn** amended his motion to include extending specific invitations to public commenters who the Committee has heard from regarding microbusinesses to provide materials to the subcommittee. **Committee Member Nevedal** seconded the amended motion.

Committee Comments:

**Committee Member Cermak** suggested that the microbusiness subcommittee meet either before or after the full advisory committee meeting in Eureka in September. **Chair Rahn** responded that if the subcommittee wishes to do that, it can be arranged.

**Committee Member Nevedal** asked **Committee Member Sweeney** if he would make sure that the recommendations from the microbusiness subcommittee that were included in the statutory list be added in the subcommittee chair's report because a lot of the issues surrounding microbusinesses are statutory.

**Chair Rahn** suggested that the first half of the committee meeting in Eureka in September be dedicated to the microbusiness subcommittee and the second half of the day be the full committee meeting.

**Committee Member Ferro** stated that the subcommittees were made small out of necessity, not due to lack of interest by members, and suggested that more committee members be allowed to join the microbusiness subcommittee.

**Chair Rahn** asked who is currently on the microbusiness subcommittee that will be present at the next meeting in Eureka. **Committee Members Nevedal, Clifford, and Heidelbach-Teramoto** indicated they will all be present at the next meeting in Eureka. **Committee Members Ferro** and **Bulbulyan** indicated that they would like to be included in the microbusiness subcommittee for the next meeting. **Chair Rahn** amended his motion to state that the five mentioned individuals reconvene as the microbusiness subcommittee. **Committee Member Nevedal** seconded the motion.

Public Comment:

**Paul Hansbury:** Mr. Hansbury commented that he would hope the subcommittee discuss the idea of a home business license.

Roll call vote was taken, the amended motion to have five members reconvene for a microbusiness subcommittee meeting and extend invitations to specific public commenters to provide materials to the subcommittee passed on a 15-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman				✓	
Catherine Jacobson				✓	

Arnold Leff	✓
Kristin Lynch	✓
Kristin Nevedal	✓
Joe Nicchitta	✓
LaVonne Peck	✓
Matt Rahn	✓
Keith Stephenson	✓
James Sweeney	✓
Tamar Todd	✓
Helena Williams	✓
David Woolsey	✓
Ben Wu	✓
Beverly Yu	✓

## 10. Future Agenda Items

### Committee Comments:

**Committee Member Nevedal** requested that cannabis events be discussed at the next meeting. **Committee Member Bulbulyan** requested that section 5418 (a) and 5418 (c) of the Bureau's proposed regulations be discussed. **Committee Member Cermak** requested the Committee revisit the issue of advertising health claims for non-medical cannabis now that there is no longer any A or M designation until the point of sale.

## 9. Public Comment on Items Not on the Agenda

### Public Comments:

**Jackie McGowan:** Ms. McGowan requested that the Committee discuss Track-and-Trace failure, specifically section 5050 (d) of the Bureau's proposed regulations and Phase 3 testing in licensed testing laboratories.

**Preston:** Commented that the six-plant minimum for personal use be changed to account for growing plants to eat as food.

**Hannah Nelson:** Ms. Nelson requested that the Committee discuss cannabis collectives and extending temporary licenses past the January 1, 2019 deadline listed in statute.

**Jim Lewi:** Mr. Lewi expressed support for the Committee to discuss cannabis events at the next meeting.

**Paul Hansbury:** Mr. Hansbury requested that the Committee discuss composite testing of cannabis goods.

**Public Commenter:** Agreed with Mr. Hansbury and added that composite testing will help alleviate financial issues for licensees and relieve the bottleneck in the industry by streamlining testing.

**Savino Sguera:** Mr. Sguera stated that testing laboratories should be able to sublet sample testing to other licensed laboratories.

**Public Commenter:** Commenter stated that the packaging requirements are onerous, and the testing requirements are exorbitantly expensive.

**Rich Miller:** Mr. Miller stated that shortages in supplies in dispensaries are due to local jurisdictions either not having the ability or not wanting to permit businesses and there needs to be help from the State in getting these jurisdictions to issue permits.

**Tim Blake:** Mr. Blake echoed earlier comments for the Committee to discuss cannabis events.

**Taylor Blake:** Ms. Blake also urged the Committee to discuss cannabis events at the next meeting and added that the Bureau should look at the wine industry on how to structure cannabis event guidelines and to allow event organizers to provide a list of all vendors and working staff the day of the event, rather than the 60 days prior as is currently in the regulations.

**Max Mikalonis:** Mr. Mikalonis supported earlier comments that the Committee discuss Track-and-Trace failure, specifically section 5050 (d) of the Bureau's proposed regulations and Phase 3 testing in licensed testing laboratories.

**Randy Disitzer:** Mr. Disitzer requested the Committee discuss expanding hours for cannabis deliveries and expanding the scope of events to include educational and informational events.

**John Brower:** Mr. Brower requested that the Committee discuss self-distribution operations at the next meeting.

**Susan Tibbin:** Ms. Tibbin urged the Committee to be mindful of the time constraints small businesses are under, many of whom have already had to closed because they were not able to enter the legal market.

**Adjournment:** 4:07 PM

# **EXHIBIT E**

**(Senate Rules Committee, Office of  
Senate Floor Analyses, 3d Reading  
Analysis of SB No. 1302)**

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THIRD READING

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Bill No: SB 1302  
Author: Lara (D), et al.  
Amended: 4/26/18  
Vote: 27

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SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 5/2/18

AYES: Beall, Hernandez, Hertzberg, Lara

NOES: Nguyen

NO VOTE RECORDED: McGuire, Moorlach

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**SUBJECT:** Cannabis: local jurisdiction: prohibitions on delivery

**SOURCE:** WeDrop Cannabis Delivery

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**DIGEST:** This bill prohibits a local government from banning delivery of cannabis within or outside of its jurisdiction.

**ANALYSIS:**

Existing law:

- 1) Allows, under the California Constitution, a city or county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws, known as the police power.”
- 2) Prohibits, under federal law, the manufacture, possession, sale, or distribution of cannabis.
- 3) Prohibits, under state law as enacted by Proposition 215 (1996), prosecution of qualified patients and their primary caregivers for possessing or cultivating medical cannabis upon the written or oral recommendation or approval of an attending physician.

- 4) Legalizes recreational use of recreational cannabis and establishes a regulatory program over commercial cannabis activity, under Proposition 64 (2016)—the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA).
- 5) Grants local governments wide latitude to regulate commercial cannabis activity within their jurisdictions. Specifically, AUMA:
  - a) Allows cities and counties to regulate or entirely prohibit commercial cannabis activity within their boundaries;
  - b) Prohibits state licensing authorities from approving an application for a license if the application would violate a local ordinance, and allows local governments to review applications for state licenses and to deny those applications if they are in conflict with local laws; and
  - c) States that its provisions shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses, including local zoning and land use ordinances and business license requirements, or limit any law enforcement or local permitting activities.
- 6) Prohibits local governments from preventing delivery of cannabis or cannabis products on public roads by a licensee that complies with state laws and local laws that are authorized under AUMA.

This bill:

- 1) Prohibits a county or city, including a charter city, from adopting or enforcing any ordinance that would prohibit a licensee from delivering cannabis within or outside of the jurisdiction.
- 2) Makes a technical change.
- 3) Contains findings and declarations to support its purposes.

## **Background**

In 1970, Congress enacted the Controlled Substances Act (CSA) which sets forth five schedules of specified drugs. For a drug to be designated a Schedule I controlled substance, CSA states the substance must have "a high potential for abuse," and have "no currently accepted medical use" in the United States. Federal law lists cannabis as a Schedule I controlled substance.

In 1996, California voters approved Proposition 215, known as the Compassionate Use Act of 1996 (CUA). CUA allowed qualified patients and primary caregivers to obtain and use medical cannabis. The Legislature clarified CUA by enacting SB 420 (Vasconcellos, Chapter 875, Statutes of 2003). SB 420 exempts qualified patients and caregivers from prosecution for using or cultivating medical cannabis. It also protects patients with valid identification cards from both arrest and criminal liability for possession, transportation, delivery, or cultivation of cannabis. The industry remained largely unregulated at the state level until 2015, when the Legislature enacted the Medical Marijuana Regulation and Safety Act (MMRSA). MMRSA comprised a package of legislation that comprehensively regulated many aspects of medical cannabis including cultivation, manufacturing, transportation, distribution, sale, and product safety. In 2016, several bills made slight changes to MMRSA, including renaming the Act the Medical Cannabis Regulation and Safety Act.

**AUMA.** On November 8, 2016, California voters approved Proposition 64—the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA)—which legalized the recreational use of cannabis by adults age 21 and older. AUMA provides for the licensure and regulation of commercial adult cannabis activities by various state agencies and imposes an excise tax and a cultivation tax on cannabis and cannabis products. Proposition 64 was subsequently amended by SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017) and AB 133 (Committee on Budget, Chapter 253, Statutes of 2017), which clarified certain provisions of Proposition 64 and established a single regulatory scheme for both medical and recreational cannabis activity and commerce.

AUMA establishes a three-tier system of licensing for commercial cannabis activity, including production, distribution, and retail sale. Entities engaged in commercial cannabis activity must possess licenses to conduct particular types of activities, issued by one of three state licensing authorities:

- The Bureau of Cannabis Control within the Department of Consumer Affairs (Bureau), which licenses retail sale, delivery, transportation, distribution, and testing;
- The Department of Public Health, which licenses manufacturing; and
- The California Department of Food and Agriculture, which licenses cultivation.

AUMA allows a retailer to conduct sales entirely by delivery. Under regulations adopted by the Bureau, a licensed retailer must have a physical location from which cannabis products are sent out for delivery, and must meet all the same

requirements of storefront retail sites, except that the retailer's physical location must be closed to the public.

*Local bans and regulations on delivery.* Using the authority granted by AUMA, most local governments in the state have banned the delivery of either medical cannabis or recreational cannabis. Specifically, according to CannaRegs.com, a company that tracks local cannabis ordinances across the United States, 333 cities and counties in California ban the delivery of both medical and recreational cannabis, and an additional 72 ban one or the other—totaling 75% of all municipalities in California.

Cannabis delivery businesses want to ensure that delivery is allowed in cities and counties throughout the state.

## Comments

- 1) *Purpose of the bill.* Voters overwhelmingly approved Proposition 64, AUMA with 57% of the votes cast. Proposition 64 legalized the production, sale, and use of cannabis in the state of California. Voters clearly intended for the use of cannabis to be legal. But local bans on delivery substantially undermine this goal, particularly as delivery becomes the method of choice for customers. These bans have even greater consequences for patients who are too unwell to grow their own medical cannabis or travel outside of their city or county to purchase it. In addition, local delivery bans encourage the continuance of a black market, to the detriment of licensed—and taxpaying—cannabis businesses. Banning delivery does not prevent delivery from occurring; it merely sends it underground, depriving the state of revenue and putting unregulated and potentially unsafe products on the market. SB 1302 solves these problems by making it clear that delivery cannot be prohibited by local ordinances. It resolves equity concerns over access to medication and inhibits the black market from developing by allowing a legal, licensed market to flourish. And it protects public safety by ensuring the regulated products are tracked from seed to sale, ensuring that no cannabis is illegally diverted.
- 2) *What voters want.* A core goal of AUMA was to preserve local control over the cannabis businesses that operate within local jurisdictions. Among the declared purposes contained within Proposition 64 was to “allow local governments to ban nonmedical marijuana businesses, as set forth in this Act.” SB 1302 proposes to allow delivery into and out of all local jurisdictions in the state, no matter what local officials say. Critics of the bill argue that by removing local authority over whether delivery may occur, SB 1302 cuts against the main thrust of Proposition 64, which was to allow local governments to ban

commercial activity within their jurisdictions. Supporters of SB 1302 argue that Proposition 64's intent was to provide for a regulated market for cannabis, and local bans on delivery only frustrate that intent by encouraging black market activity and hindering the ability of individuals to use cannabis. Ultimately, the courts may decide if SB 1302 is consistent with Proposition 64.

- 3) *Home rule.* Local governments have an interest in controlling what type of activity occurs within their jurisdiction in order to protect public health, safety, and welfare. It is unclear whether SB 1302 allows local governments to impose their own licensing conditions on a cannabis delivery company that operates from outside of their jurisdiction, or if a delivery company could get a state license, to locate within a jurisdiction that doesn't impose any additional rules, and then deliver to communities that have more stringent regulations. This dynamic could create a race to the bottom, where delivery companies flock to those jurisdictions that provide minimal licensing requirements, with the goal of, for example, avoiding labor protections or local taxes.
- 4) *Two-thirds vote.* Proposition 64 allows the Legislature to amend it with either a simple majority or two-thirds vote, depending on the specific nature of the amendments. If the amendments implement the substantive provisions of the medical cannabis portions or the commercial cannabis regulatory framework of the proposition, or if the amendments further reduce penalties contained in the Act, the Legislature can enact changes by majority vote. Any other amendments require a two-thirds vote. In all cases, legislative amendments must further the purposes and intent of the Act. Because SB 1302's amendments to the Act go beyond simply *implementing* AUMA, Legislative Counsel assigned the bill a two-thirds vote key.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: No    Local: No

**SUPPORT:** (Verified 5/23/18)

WeDrop Cannabis Delivery (source)

420 Central

420 Stock

A Therapeutic Alternative

A+ Collective

Alchemist

Americans for Safe Access

Americans for Safe Access, Oakland

Americans for Safe Access, San Diego

Americans for Safe Access, San Francisco

Around My Way Delivery  
Bay Area Delivery Alliance  
Blackbird  
Board of Equalization Member Fiona Ma  
Brownie Mary Democrats of Sacramento County  
C.A.R.E.  
CA Labs  
California Asian Chamber of Commerce  
California Cannabis Courier Association  
California Cannabis Delivery Alliance  
California Cannabis Industry Association  
California Cannabis Manufacturers Association  
California High Society, Seniors Seeking Cannabis  
California NORML  
Cannabis Industry Association of Marin County  
Cannagram  
CannaWagon  
CBD Power Bars  
CMG/Caliva  
Cold Creek Organics  
Conference of California Bar Associations  
Cosmic Courier  
COVA  
Covelo Cannabis Advocacy Group  
Delta Roots Collective  
Driven  
Drug Policy Alliance  
Elite Care California  
Far Out Farm, Inc.  
Fiddler's Greens  
Fire Farms  
Fire Pharmaceuticals  
Grannie Chris Edibles  
Green Rush Consulting  
Greenspoon Marder  
Hueneme Patient Consumer Co-Op  
Ijasun  
International Cannabis Farmers Association  
JWC Deliveries, Inc.  
Kanna, Inc.

Kannibox  
Karyn Cooks Modern Marketing  
Kin Slips  
Kind Deliveries  
Kind Farms  
Los Angeles Delivery Alliance  
Lucky Box Club  
Marin County Courier Association  
Marygold Delivery  
Meadow  
MendoRoyal  
Nevada County Cannabis Alliance  
North Coast Cannabis Nursery Group  
Peace of Mind Health & Wellness  
Reverence Vegan Gardens  
San Diego Cannabis Delivery Alliance  
SAVA  
Sespe Creek Collective  
Shale Peak Horticulture  
Sierra County Growers Association  
SIVA Enterprises  
Southern California Coalition  
SpeedWeed  
Students for Sensible Drug Policy, Golden Gate University School of Law  
Sunnabis: Humboldt's Full Sun Farms  
Taproot Business Consulting  
Teamsters  
The Emerald Cup  
The Emerald Exchange  
The Farmers Flower  
The National Alliance of Mental-Illness-California  
The Way Home  
Thrive Society  
Tōdem  
Treat Yourself  
TryLeaf, Inc.  
Vertiza Properties  
220 individuals

**OPPOSITION:** (Verified 5/4/18)

California Police Chiefs Association  
California State Association of Counties  
City of Moorpark  
City of Thousand Oaks  
County of Sacramento  
League of California Cities  
Long Beach Collectives Association  
Rural County Representatives of California  
Santa Ana Cannabis Association  
UFCW Western States Council  
United Cannabis Business Association  
Urban Counties of California  
Verdant Distribution

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119

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\*\*\*\*\* **END** \*\*\*\*\*